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International Court of Justice

H0216-0002

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AFTERNOON SESSION

(The Tribunal reconvened at 1400 hours.)

SIR DAVID MAXWELL FYFE: My Lord, I continue with the military activities of the SA, with the last sentence on Page 62.

In Czechoslovakia the SA provided the chief support for the Sudeten Free Corps. In October 1938, a few weeks after the Munich crisis, the OKW Liaison Officer with the Free Corps reported:

"Supplies had been organized by the SA, arms supplied by the Austrian SA. With magnificent camaraderie and unselfishness, the SA Leadership had looked after the Free Corps materially. Equipping and feeding remained in the care of the NSDAP and the SA."

My Lord, I add, to remind the Tribunal, that in the appendix to that document there will be found a list of the prisoners, the booty taken by the Free Corps, and the casualties inflicted by them in what was a time of peace. This support to the Free Corps was certainly included in "border control" as Juettner himself admitted.

The crimes of the SA did not end with the outbreak of war. Again I quote from the witness Juettner:

"At the beginning of the war with Poland the SA Group Sudeten carried out transports of prisoners of war into the camp. Other SA groups in the East may have been used for similar purposes. Later on the SA Leadership and the SA as an organization had nothing to do with this question."

When you consider the evidence you have heard of the appalling conditions in which these prisoners from the East were transported into their camps, are you satisfied that that task of guarding transports was as innocent as it appears?

Juettner has also left us a report dated June 1941 describing the activity of the SA in the war. In the communicating zones its members gave assistance to the Political Leaders in their tasks of education and orientation. Twenty-one groups of SA men were being used for guarding prisoners. The organization of the SA groups in Danzig, Posen, Silesia and the Baltic Provinces is described in these words:

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"In these Regions also as in combat, the SA was the assault unit of the Party.....In these Regions also the SA service, practically speaking, is directed towards strengthening the defensive forces. It was therefore necessary to overcome the inferiority complexes of the racial Germans, the result of Polish suppression, and to bring their extraordinary appearance and bearing into keeping with SA standards."

How sinister these innocent words became in view of all the evidence of what was taking place in these eastern and Baltic provinces.

The administration of the ghetto of Vilna was in the hands of the SA and its inmates were guarded by SA guards. Some of the Jews were made to live, enchained in deep pits where the SA

"fastened chains round both ankles and round the waist; they weighed 2 kilos each and we could only take small steps when wearing them. We wore them permanently for 6 months. The SA said that if any man removed the chains he would be hanged."

Their work consisted of digging up mass graves:

"We dug up altogether 68,000 bodies.....Amongst those I dug up I found my own brother."

At Vilna, too, SA guards were forcing the Jews to extract the gold from the teeth of their dead brothers with prongs, washing it in benzine and packing it into 8 kilogram boxes which the SA officer in charge personally took away.

DR. BOEHM: Mr. President, I believe that with regard to the statements which were just made I can refer to Affidavit D 964, the submission of which was rejected by the Court, Affidavit GB 597. The whole affidavit is printed here on Page 64, and the content of the statements just made refers to this affidavit, the submission was not approved.

SIR DAVID MAXWELL FYFE: My Lord, I respectfully disagree with Dr. Boehm. I have the affidavit in front of me, D-964, which has the exhibit number GB 597. Paragraph 7 reads:

"Our work consisted in digging up mass graves and piling the bodies on the funeral pyres and burning them."

THE PRESIDENT: Yes. But, Sir David, what Dr. Boehm was saying is that we rejected the affidavit.

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SIR DAVID MAXWELL FYFE: My Lord, not this affidavit. I distinctly remember reading it. It has an exhibit number.

I selected one affidavit dealing with each kind, and this one of Szloma Gol was the affidavit I selected with regard to Vilna.

THE PRESIDENT: Dr. Boehm, what ground do you have for saying that it was rejected? If it was rejected, you must have some reasons for thinking s

Where is the transcript? Do you have the transcript with you?

DR. BOEHM: I am of the opinion that this affidavit was among those affidavits which the Court rejected. At the moment, of course, I cannot investigate, but I shall be glad to do so after the session. I believe that this affidavit was among the affidavits which were rejected.

THE PRESIDENT: This was not one of the eleven affidavits which were rejected?

SIR DAVID MAXWELL FYFE: No, My Lord. Your Lordship will remember that I had about a half dozen Jewish witnesses from the Baltic provinces, and the Tribunal said that I could call three, and that they were to be available for cross-examination by Dr. Boehm.

The deponent of this affidavit, Szloma Gol, was one of the three that I selected, and I put in this affidavit, which received the exhibit number GB 597.

My Lord, that is the recollection of myself, of Colonel Griffith Jones and Major Barrington, who were helping me at the time. And the fact it has an exhibit number is prima facie evidence that the Tribunal accepted it.

THE PRESIDENT: I think you had better go on. If Dr. Boehm can produce evidence that it was rejected, it will be stricken from your speech and will be disregarded.

SIR DAVID MAXWELL FYFE: Very well, My Lord.

The ghetto of Schaulen, south of Riga, was in charge of the SA. 700 to 800 men were there, recognizable by their brown uniforms and swastika armlets.

"In August 1941 the SA surrounded the whole ghetto and numbers of them went into the houses and took out children and old men and put them into lorries and drove them away. I saw all this myself. It was done

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exclusively by SA. I saw them take children by the hair and throw them into the lorries. I did not see what happened to them but a Lithuanian told me afterwards that they had been driven 20 km. away and shot. He said he had seen the SA make them undress and shoot them with automatic pistols."

The SA guarded the ghetto of Kaunas where 10,500 Jews were shot in the dreadful "action" of 28 October 1941. So also did they guard the labor camps of Sakraw, Hechtal, Markstedt, Klettendorf, Lanbielaw, Faulbrück, Reichenbach and Anaberg in Upper Silesia, where Poles, Frenchmen, Belgians, Dutch and Greeks slaved and died through ill-treatment and malnutrition and where "the methods of the SA by no means lagged behind those of the SS."

There can be no doubt of the verdict of those Jews who underwent those years of nightmare in the ghettos and labor camps in the East. Not only are the conditions they describe confirmed again and again from other sources and from the Germans' own documents, but even the identification of a particular SA man they mention is corroborated. Leib Kibart gave you the name of the District Commissioner in whose courtyard the Jews from the Schaulen ghetto were daily cursed and beaten by their SA guards. He told you he was called Gewecke and that he was a member of the SA. We have the signature of Gewecke on one of his own letters dated 8 September 1941 complaining that the SS were interfering in his arrangements for the "orderly confiscation of Jewish property." The letter heading on that document is "the Regional Commissar in Schaulen."

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Nor was it only in guarding duties that the SA were employed. They were forming Einsatz Commandos of their own units of the SA were sharing in the bloody work of annihilating the partisans. The Regional Commander of the Security Police and SD in Cracow, in writing to the defendant Frank, tells of the work of a special SA Einsatz Commando which was formed for the purpose of collecting workers from the civilian population.

The General Commissar for White Ruthenia reported in June 1943 that

"By order of the Chief of band combatting SS Obergruppenfuehrer von dem Bach, units of the Wehrmannschaften have also participated in the operation. SA Standartenfuehrer Kunze was in command of the Wehrmannschaften." That action to which the General Kommissar referred was the terrible operation Cottbus which you will remember and of which the General Commissar reported "the political effect upon the peaceful population is simply dreadful in view of the many shootings of women and children."

The SA had been organized in the Government General in 1941. Speaking in December 1943 the Defendant Frank said:

"When 2 ½ years ago I gave orders for the SA to be formed, I was guided by a thought which today fills me more emphatically than ever. I strove to ensure ..... that an emergency reserve of absolutely unshakable National Socialists should, under all circumstances, exist in the Government General. It is quite clear that this emergency reserve of pronounced National Socialist fighters can only be the SA ..... Here as an SA comrade with my SA comrades, I can, within the framework of the SA truly cultivate what has to do with the Volk in a way which I cannot do in the political existence of the area, where I have to take numerous things into account and have to have a whip in my head without interruption, like a lion-tamer in a lion's cage, in order to keep the ban its in check. That is a point of view which a Gauleiter in the Reich never need take into account..... It (the SA) has for the first time been employed here in a new area with new methods and tasks which however, have been solved owing to the very fact that the SA is here the same as it was in the period of struggle in the Reich."

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Meanwhile at home in the Reich the SA were taking over - I quote:

"the functions which had previously been entrusted only to the SS and Sipo and Army, for instance, the guarding of prisoners of war camps, supervision of forced labourers in Germany and occpied territories. This cooperation of the SA was planned and arranged by high offices in Berli as early as the middle of 1943."

In Styria the camp of Frauenberg was being operated as a labour camp for habitual drunkards, delinquents and shirkers. 300 inmates worked in the neighbouring stone quarries and on road construction. SA men provided the guards. Can we picture the conditions in which these shirkers and delinquent lived - or died ?

Violence and murder and mastery of the streets during the years of struggle. Illegal arrest, unauthorized concentration camps, unbelievable sadism during the years of triumph, 1933 and 1934. Ruthless suppression and brutal persecution of Jews and Christians and of every opposition, coupled with warlike and aggressive training during the years from 1934 until the outbreak of war. And after that, more concentration camps, more sadism, more suppression and persecution, this time of the allegedly racially inferior peoples they had conquered; and violence and murder -but not, as it had been in the distant days of 1933, as individuals : now it was of whole peoples. It is the same pattern running through the years. Can your decision frank these men again to terrorize the peoples of Germany and Europe ? My Lord, I do not conceive it to be necessary to deal at any length with the evidence against the SS. You are already too well aware of the character of this organization and of the activities of its members. The letters SS appear in connection with almost every one of the crimes, great and small, of which you have now heard daily over the course of almost 10 months. It may all be summarised, even if understated, in the words of their leader Himmler, I quote:

"I know there are some people in Germany who become sick when they see these black coats. We understand the reason and do not expect that we shall be loved by too many."

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I would therefore address you only upon one or two particular points that have arisen and to which the Prosecution attach particular importance.

The history of its development may be stated in a few words. Created originally as an elite bodyguard for the protection of Hitler himself, together with the SA, it formed a private Nazi army and the basis of what was to become the vital instrument in the conspiracy to wage aggressive war. Its value as a thoroughly reliable "instrument of the Fuehrer" was demonstrated in June 1934 when it performed the function of executioner in the blood purge which accompanied the murder of the SA leader Roehm. I quote:

"It appalled everyone" said Himmler later, and yet everyone was certain that he would do it again if such orders were issued and if it were necessary."

The willingness of the SS to do it again was to be exemplified a millionfold in the ensuring years.

Until January 1933 the SS consisted of a single unit. There were no special branches, and, apart from their common role with the SA and their special position as Hitler's bodyguard, they had no other particular tasks. After the Nazi Party had come to power, however, and particularly after 1934 its members increased and its organization expanded and became more complex. Now units were created, such as the SS Totenkopf Verbaende, the task of whichwas, and continued to be, the guarding of concentration camps. A few selected units were given arms and in effect became Himmler's private army known as the SS Verfuegungstruppe. At the same time certain functions became the speciality of other groups which, while not having as separate branches, for instance, the SD who were the intelligence service of the SS and who were later to work in such close co-operation with the Gestapo. Although it became customary to distinguish between the several branches and formations of the SS by name, in terms of administration and command they were parts of the one SS, all under command of the Reichsfuehrer SS and all administered and controlled through the various main offices of the SS supreme Command.

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At the outbreak of war the majority of the Allgemeine SS, the great mass of the SS membership which had remained unarmed, were drafted into the Wehrmacht. New recruits were enrolled in the Verfuegungstruppe, which was expanded to form the fighting divisions of the SS and it was these fighting divisions which, in about 1940 came to be known as the Waffen SS.

The Tribunal has seen from the report of the SS Statistical Institute how the SS had developed by 30 June 1944. By then it had a total membership of 794,941. The Allgemeine SS -the original nucleus of the SS- had declined in importance during the war because more than half of its 200,000 members had been called up to the Wehrmacht, the Labour Service or other special Nazi agencies. The remaining 594,443 belonged to the Waffen SS. The Tribunal has seen how 368,654 of the Waffen SS men were in field units. About 160,000 were in reinforcement, training and reserve units. 26,544 were in other units and offices directly subordinate to the Operational H.Q. of the SS High Command. 39,415 were in the SS Main Offices.

It is particularly significant to see how those 39,415 men of the Waffen SS were distributed. The Tribunal will see there I attached a total. Witnesses have told you that the Waffen SS had nothing to do with the concentration camps. But no less than 24,000 of them were in the WVHA, the offices which organized and were responsible for the administration and personnel of the concentration camps. That 24,000 did not include the Totenkopf SS which provided the guards. Waffen SS men also provided the manpower of the various Nazi genocide organizations operating within and on behalf of the SS the Racial and Settlement Main Office, the Office of the Reich Commissar for the Consolidation of German Folkdom, the Central Office for persons of German Race, the Personal Staff of Himmler, including Sievers' infamous Ahnenerbe.

It is said of the Waffen SS that it was in effect a purely military organization the character of which was no different from any unit of the Wehrmacht. On the evidence this is not so. It is true that the Waffen SS was the combat arm of the SS. But, although its fighting formations came under the command of the Army, for operational purposes, always they remained an integral part of the SS.

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Indeed, the Hitler order regarding the function of the SS on mobilization provided that if placed under the command of the Army it, I quote :"remains a unit of the NSDAP politically". Recruiting, training, promotions, administration and supply of the Waffen SS throughout the war remained the function of the Supreme Command of the SS. It was recruited through the SS Main Office. It was organized, administered and supplied through the SS Operational Office, which was the seat of its Command Headquarters. Members of the Waffen SS were subject to the jurisdiction by the SS Main Legal Office. Like all other formations of the SS, the Waffen SS was subject to Himmler's jurisdiction as Reichsfuehrer SS. It was in theory and in practice as much an integral part of the SS organization as any other branch of the SS. You will remember the evidence that von Rundstedt gave, I quote:

"The troop units of the SS were subordinate only to Himmler. I had no disciplinary power nor judicial power over them. I could not give them leaves or issue awards. I was responsible only for the technical employment of these divisions, much as I might use an Italian, Hungarian or Slovakian division."

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These then were the broad outlines of the SS, this all purposeful "state within the state" as General Detzel called it. The Defence now seeks to divide this all-embracing unity of the SS into various totally separate components united only in the person of Himmler. He and three or four of his subordinates are alone made responsible for the millionfold crimes that were committed. But this contention violates both truth and sense. We are dealing in this trial not with the murder of ten men here, or twenty there. In this indictment is charged not only the murder of millions but a demoniac plan of genocide, of the planned murder of whole nations, peoples and races. The SS was the chosen instrument for this plan which out-Heroded Heron. This plan could only be executed by the use of the whole of the SS, of every branch of the SS working in unison and in co-operation with each other. The evidence given in this trial has shown that the crimes of the Nazi conspirators could not have been executed in an improvised way by sporadic criminal acts. They were carefully planned, prepared and put into action through the SS and other criminal organizations. The men of the SS were particularly qualified for this plan of crime. Physically trained and selected, they were politically indoctrinated in Naziism and were committed to blind obedience to the commands of Hitler and Himmler and the rest of the Nazi leaders. "Orders must be sacred" said Himmler. Not only was membership voluntary during the first sixteen years of the existence of the SS from 1925 on: it was subject to most careful selection in an endeavour to produce what the SS called a "male racial elite", a "super-structure", a "band of definitely Nordic German men." SS men had to be fanatical Nazis of "Aryan" descent.

Much emphasis has been made by the Defense that during the course of the war the voluntary basis of the recruitment was replaced by compulsory drafting. The witness Brill gave evidence that "at the end of the war there were more draftees in the Waffen SS than volunteers."

It may be helpful to the Tribunal if I very shortly discuss the evidence of that witness. While it is not questioned that at some stage during the war considerable numbers of men were arbitrarily drafted into the Waffen SS, the date when this practice commenced and the extent to which it was carried, as they have been given by the witness Brill, are both challenged.

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He told you that the first 36,000 were conscripted between the Autumn of 1939 and the Spring of 1940. To say that the 36,000 were compulsorily drafted into the SS is deliberately misleading. When he was cross-examined before the Commissioner upon a similar statement he admitted that that 36,000 were already members of the Allgemeine SS which they had voluntarily joined. They were not conscripted: they were simply posted from one part of the SS to another. Figures of the subsequent conscripts which he gave were as follows:- During 1942, 30,000: during 1943, 100,000; and during 1944 210,000, making a total of 340,000. Even on these figures he is far short of justifying his statement that by the end of the war there were more conscripts than volunteers. He gave the grand total of the Waffen SS as 910,000 -- a figure which included its strength in 1940 and all subsequent reinforcements, both voluntary and compulsory. 340,000 amounts to only just over one-third of that total.

On the question of the date at which recruits were first conscripted into the SS there is considerable evidence to refute this witness. In February 1940 Hess was instructing the Party offices to assist in the voluntary recruitment for the SS. In the decrees which he issued there was no suggestion of compulsory drafting. In April 1942 a recruiting pamphlet was emphasizing the voluntary basis of the Waffen SS in these words:

"The youth of the National Socialist Reich knows that he must himself initiate proceedings in order to complete his military service in the Waffen SS. That so many young Germans have volunteered for the Waffen SS is a living testimonial to the confidence of today's young generation in the Waffen SS, its spirit and above all, its leadership."

"The Soldier's Friend", a pocket diary for the German Armed Forces, published in 1943, the year in which Brill would have you believe that 100,000 men were conscripted without choice, was describing the members of the SS as hopeful young men who had "voluntarily decided to join the ranks of the Waffen SS." It stated, I quote:

"Everyone has acquainted himself with the comprehensive manual for the Waffen SS. The principal points are as follows: 1. Service in the Armed Forces SS counts as military service. Only volunteers are accepted."

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In April of the same year Himmler was directing Kaltenbrunner on the admission of SIPO officials into the SS:

"I wish to clarify again: he said I want an admission only if the following conditions are fulfilled:

1. If the man applies freely and voluntarily."

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And the Organization Book for 1943 explains that the Waffen SS by admitting volunteers for the duration of the war makes it possible for those volunteers to fight in the battle for the evolution of the National Socialist idea. I am entitled also to make this comment upon Brill's evidence. You will remember that I have already referred you to the statements which this witness made upon the activities of the SS Division Leibstandarte which must, in my respectful submission, be regarded as perjured testimony. In view of the suspect nature of his evidence and of the evidence there is to contradict it, it is my submission that whatever may have been the extent of compulsory service in the SS it was very much less and came into being at a very much later date than he contends.

But whatever the truth of this matter may be, it is our submission that the fact that a number of men were compulsorily enrolled ought not and cannot afford this organization a defense. The instances of crime committed by the SS during the war are so wide-spread, so constant and so vast that you are compelled to infer that the vast majority of its members, whether in the first place they joined voluntarily or otherwise, readily accepted the tradition of the SS and themselves became willing parties to its criminal activities. May I consider in outline only some of the evidence upon which that conclusion must be drawn.

You know already the form of education and training that the SS man received - a training for "the racial struggle" which Himmler commanded them to prosecute "without mercy." Racial theories, geopolitics, eugenics - this was their curriculum. Mein Kampf was their Bible. Their basic philosophy was expressed by Himmler:

"It must be a matter of course that the most copious breeding should be from this racial super-stratum of the Germanic people. In 20 to 30 years we must really be able to present the whole of Europe with its leading class. If the SS, together with the farmers..... then run the colony in the East on a grand scale

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without any restraint, without any question about any kind of tradition but with nerve and revolutionary impetus, we shall in 20 years push the national boundary 500 km. eastwards."

The propagation of ideas like these could only have accustomed SS men to the conception of a world in which the destruction, enslavement and the degradation of "inferior" peoples were regarded as an honourable duty. Pangs of conscience did not and could not trouble these men. The Tribunal will remember the words of Bach Zalewski when he was asked whether the murder of 90,000 Jews by one small Einsatz group (to which, incidentally, the Waffen SS provided most of the killers) was in keeping with Nazi philosophy. He said:

"I am of the opinion that when, for years, for decades, the doctrine is preached that the Slav race is an inferior race and Jews not even human, then such an outcome is inevitable."

Not only were SS Generals like Bach-Zalewski and Ohlendorf themselves infected by this poison. It is our submission that it did - and must have - poisoned the ordinary SS man who did the killing. Their extermination of Jews was regarded as

"A page of honour in our history."

Honour! Cold blooded mass murder regarded as honour! Do we need further evidence to prove the type of man this filthy education bred? Long before they had enrolled themselves in the SS their members had been saturated with racial hatred and Fuehrer worship. SS training was only a more advanced course. When they joined the SS, to whatever part they went they saw the practical application of all that they had learnt before. Everywhere, in every office, in every unit, murder was the trade. And where murder was to be done it was the members of the SS that were enrolled to do it.

The Ahnenerbe was a department of the SS. Its list of members included the names of over one hundred professors and other educated men - all SS members, who relied upon the murderous business of hundreds of other SS members to supply them with the bodies for their experiments and the specimens for their collections

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- bodies of commissars who were to be taken alive and then decapitated, care being taken that, I quote: " the head should not be damaged."

Professor Hirt wrote:

"By procuring the skulls of the Jewish Bolshevik Commissars who represent the prototype of the repulsive but characteristic sub-human, we have the chance now to obtain a scientific document."

The Office for the Consolidation of German Folkdom was an office of the SS, the office responsible for the awful crime of genocide and all that it entailed. The RSHA and the WVHA controlling and responsible for the concentration camps were manned by SS. The crimes of the SS in the concentration camps need no further mention except to emphasize that the enquiries instituted by the SS judicial system, of which the witness Morgen gave evidence, were not enquiries into mass murder but into cases of corruption by SS officials. That witness is another whom I have already suggested to be unworthy of belief. How can the story of an investigation by an SS judge into the murders by Hoess at Auschwitz, which were interrupted by the advance of the Allies, be taken seriously? What further investigation could have been needed when Hoess himself knew all the details of the Auschwitz killings some time in 1943 or 1944. Do you doubt that had the Allies lost the war Hoess would still be committing mass murder in that concentration camp and that SS judges would still be investigating corruption and isolated crimes?

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The Einsatz Commandos were primarily SS. They show in miniature the co-operation between the various branches of Himmler's system and the unit of the SS. Action Group"A" was composed as follows :

Waffen SS	34.4 %
SD	3.5 %
Criminal Police	4.1 %
Gestapo	9.0 %
Auxiliary Police	8.8 %
Other Police	13.4 %

The system of exterminating Jewry was handled by SS. The Warsaw Ghetto is but one example. The deportation, murder and robbery of the Poles and other peoples occupying territory which was required for German settlement was undertaken by SS. You will remember the Globocnik report, the action in which thousands of Poles were removed from their homes and 178 million Reichsmarks acquired for the WVHA and which in the words of Globocnik himself, was

"Carried out within the framework of the SS .....

Only the decency and honesty as well as the surveillance of the SS men used for this purpose could guarantee a complete delivery."

One is surprised that he did not add "pecunia non olet" (The money does not smell)

The Waffen SS came to be the spearhead of Nazi wars of aggression, particularly in the invasion of the Soviet Union, and exemplified the tyranny and slaughter which were inherent in Nazi domination.

"We will never let that excellent weapon, the dread terrible reputation which preceded us in the battles for Kharkow fade, but will constently add new meaning to it", said Himmler to the officers of three SS Divisions in Kharkov in 1943.

The Waffen SS succeeded in constantly adding new meaning to its reputation for terror. Numerous instances have been submitted to the Tribunal of the commission of war crimes, and crimes against humanity by units of the Waffen SS. They are fresh in the Tribunal's mind and I will not recapitulate them.

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I would only remind the Tribunal that some of the worst atrocities took place in 1943 and 1944, at which time a proportion of the Waffen SS were conscripts.

How can it be contended that the members of the SS, and particularly of the Waffen SS, were merely soldiers -soldiers who had no knowledge and took no part in these crimes ? How can it be said that it was not they whose aims were criminal ? Wherever we find Nazi crimes being committed we find also SS men involved. Always it is said that these SS men were something special, members of the SS or some other particular branch, members of the SS who had been drafted away to serve with special units such as the Einsatz Commandos, members of the SS who were not really SS men at all but doctors or police. Can this be really so ? Let us ignore the evidence, of the concentration camps, of the Einsatz Commandos, of the vast and brutal crimes against the populations of their invaded territories, of the mass exterminations of Jews throughout half the countries of Europe, of the legion instances of individual crime and sadism, of the legion other instances of murder in battle and of every other breach of the laws of warfare. Let us ignore the evidence of all these crimes, although each one of them was committed by different SS men in different towns and villages throughout the length and breadth of the Greater Reich. Let us ignore them although they did not constitute one sudden wave of crime but were being done day after day over the years. Let us ignore the fact that in almost no instance of crime of which we have heard were any other than SS men involved. Let us ignore all this if you wish. Without it the criminality of the SS from the highest to the lowest is established by the records which we have of those three speeches that Himmler made to the officers of his SS units.

In April of 1941 he was talking to all of the officers of the SS Division Leibstandarte. In October 1943 he was addressing his Major Generals at Posen. In the same month the commanding officers of every regiment in three of his SS divisions were listening to what he said at Kharkov. These speeches have been quoted to you again and again and you know the sentiments

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that were expressed and the subject matter that they covered. Will you try to imagine a General from your own countries talking to all the officers of one of your own divisions of hauling into slavery "thousands, tens of thousands, hundreds of thousands" of people; of shooting "thousands of leading Poles". Will you try to imagien a British or an American or a Soviet or a French army commander telling his Major Generals :

"What happens to a Russian, to a Czech, does not interest me in the slightest ..... Whether 10,000 Russian females fall down from exhaustion while digging an anti-tank ditch interests me only in so far as the anti-tank ditch for Germany is finished."

Or saying this :

"I also want to talk to you, quite frankly, on a very grave matter /... .. I mean the clearing out of the Jews, the extermination of the Jewish race. It's one of those things it is easy to talk about - 'The Jewish race is being exterminated', says one party member, 'that's quite clear, it's our program -elimination of the Jewsm and we're doing it, exterminating them. And then they come, 80 million worthy Germans, and each one has his decent Jew. Of course the others are vermin, but this one is an A 1 Jew. Not one of all those who talk this way has witnessed it, not one of them has been through it. Most of you must know what it means when 100 corpses are lying side by side, or 500 or 1000. To have stuck it out and at the same time - apart from exceptions caused by human weakness- to have remained decent fellows, that is what makes us hard.

Can you see him telling all the Commanding Officers of one of his divisions:

"Anti-Semitism is exactly the same as delousing. Getting rid of lice is not a question of ideology, it is a matter of cleanliness. In just the same way anti-Semitism for us has not been a question of ideology but a matter of cleanliness."

If you can imagine so much, can you imagine what you would say of the officers and of the men that they commanded ? Is it possible that officers

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and men in these Waffen SS divisions who could be spoken to in such a way were hi hminded, clean-living, decent and honourable soldiers ? Such men, be they from Germany or from any other country, in the world, would not tolerate these words. Those speeches have become hackoyed enough during the course of this trial, but they never lose their si nificance. They show that every member of those SS unit was a prototype of his SS fuehrer. If it were not so the defendant Goering could not have said, after telling Mussolini the horrors of German's methods in fighting the partisans,

"Members of the Party discharge this task much more harshly and efficiently ..... The SS, the guard of the old fighters of the Party, who have personal ties with the Fuehrer and who form a special elite, confrim this principle."

If it were not so the defendant Hess could not have written:

"The units of the Waffen SS ..... are more suitable than other armed units for the specific tasks to be solved in the occupied Eastern territories due to their intensive national socialist training in regard to questions of race and nationality."

We know what Hitler had in mind as the future role of the Waffen SS -State Police to impose German authority in the conquered countries; State Police who would never fraternise with the proletariat and underworld. That was their destined role which all the army knew because, by order of the OKW, it had received the "greatest publicity". We know enough of the Nazi State Police, of the education and training during these years of war to fit them for the task that lay ahead of them, to know also the sort of methods which they would have employed. It is those men, the men who were intended and had been trained to police and terrorise Europe, who compose the organizat: of the SS which we ask you to convict as criminal.

Such are the main considerations in connection with these three Organizations, the Corps of Political Leaders, the SA and the SS to which I desire to draw your attention. It was these Organizations which provided the machinery by which the crimes that these defendants conceived were executed.

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These three Organizations were not separate and distinct from each other as their Counsel have attempted to portray them. It was their members who together constituted- and still do- the fundamental and dangerous core of National Socialism. As the separate branches of the National Socialist elite their aims and purposes were the same and they worked and co-operated with each other using the same methods which were criminal for all to see. From the outset this was so and continued so until the end. Nothing more clearly demonstrates these things than the evidence of how the National-Socialist Party and Government debased the concepts of law and order and corrupted the judicial practice of their Courts in order to protect themselves and their followers in the criminal courses they were pursuing.

Hardly had the Nazi Government come to power than the Nazi Ministers, Nazi police and Nazi judiciary were condoning violence and murder committed by the SA and the SS and the Gestapo. And for what reasons :-reasons which must have demonstrated to all Germany and must demonstrate to all the world today the very rottenness of National Socialism:

"As the deed did not originate from ignoble motive but rather served the achievement of an exceedingly patriotic aim and the advance of the National Socialist State, the quashing of the proceedings .., does not seem incompatible with the orderly administration of criminal justice."
Such was the opinion of the Public Prosecutor to the Provincial Court in Nuremberg in respect of the SA men who had beaten a Communist to death- beaten him until the soles of his feet were so swollen

"owing to the mass of blood gathered there, that after the blood had been drained off by incision, pockets nearly the size of a fist were formed."

In Munich the state Minister of the Interior was giving similar reasons for quashing proceedings against SS guards in Dachau who had beaten a prisoner on the head until he died:

"As a reason it is pointed out that the conducting of investigations would cause great harm to the prestige of the National Socialist State, since these proceedings would be directed against members of the SA and SS and thus the SA and SS as the chief protagonists of the National Socialist State would be immediately affected."

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Nazi judges were suspending proceedings against members of the SA in agreement with the Supreme Leadership of that organization.

"The deed and intention of the SA men were only aimed at the well-being of the National Socialist movement. Political reason and the purity of intentions is thus beyond doubt."

When judges not yet accustomed to these new conceptions of law did convict SA guards who "not only attempted to wring confessions from inmates but acted in sheer lust for torture", they were at once expelled from the Party; The prosecutor who happened himself to be a member of the SA was warned that he should resign and the Gauleiter wrote to the Supreme Court advising that a pardon should be substituted for the sentence that had been imposed.

Can there be any doubt that candidates for membership of these organizations did not know that membership afforded the license to murder ?

Nor were these concepts of law confined to the State and Party Courts, The military could not resist anything so attractive. By 1939 a military judge was granting to an SS man extenuating circumstances

"because he was induced to participate in the shooting by a corporal handing him a rifle. He was in a state of irritation owing to numerous atrocities committed by Poles against persons of German race. As an SS man particularly sensitive at the sight of Jews and to the hostile attitude of Jewry to the Germans, he therefore acted quite thoughtlessly in a youthful spirit of adventure."

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Those SS soldiers had been sentenced to imprisonment for "manslaughter" which th army commander refused to confirm. It was for "manslaughter" of a kind known onl to National Socialists who, as we have seen in this Court, display a curious sensitiveness to the word "murder". This they called manslaughter: "After about 50 Jews, who had been used during the day to repair a bridge, had finished their work in the evening, these two men drove them all into a synagogue and shot them all without reason."

Let me conclude by reminding you of the opinion of the Supreme Court - the supreme guardian of National Socialist honour and discipline to whose agust authority and jurisdiction the members of all these organizations were subject. O the murders committed during the 1938 demonstrations by Hoheitstrager and mem of the SA and SS, the investigation of which had been entrusted to the Secret State Police and Party Jurisdiction, of Gauleiters and other political leaders, it was pleaded that, I quote, "in such cases as when Jews were killed without an order or contrary to orders, ignoble motives could not be determined." The purp of these proceedings in the Party Court were, I quote again, "to protect those Party comrades who, motivated by decent National Socialist attitude and initiati had overshot their mark."

In these few lines you have the secret of all the death and suffering, the horror and tragedy, that these defendants and the members of these organizations have brought upon the world. You see to what depths of evil they corrupted the human conscience. No ignoble motive- The murder of woman and children the "decen National Socialist attitude and initiative". Such was the National Socialist creed which the members of these organizations fanatically accepte , the creed which - can one doubt - they still cherish and, given the opportunity to do so would revive.

With regard to the High Command and General Staff, it is not my intention to trespass on the ground which will be covered so well by my colleagues. Neverthe- less I want to state, as clearly and emphatically as it may be stated, that the British Delegation unreservedly joins them in the request for the condemnation of the group indicted as the General Staff and High Command.

The men involved have joined in wars which they knew were unjust wars of aggression. They have borne essential parts in the deeds which in the hands of their immediate perptrators are undeniably war crimes and crimes against humanity

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Yet they protest their innocence.

Our case against them has as clear a basis on the facts of this case as in the lessons of history.

They carried out orders which on the admission of many of them bit deep into the remnants of their conscience. They knew that they were doing what was wrong but they now say "Befehl ist Befehl" - an order is an order.

All decent men find it difficult to blame others for absense of moral courage they are only too conscious of their own failings in that direction. But there comes a point when, faced with crimes which are obvious murder or barbarity, ther is a higher duty. Even Dr. Laternser admitted this was so. His suggestion to the witness Schreiber that he ought to have protested at the Army Staff's proposals for bacteriological warfare came strangely on behalf of these men whose very defense has been to declare the impossibility and uselessness of protest. What nonsense - what utter nonsense - is this which you have been asked to listen to by these Defendants and their Generals when their own Counsel, to discredit a witness, must ask the very question which the Prosecution have been asking of themselves since the day this trial began. In fairness to all military tradition it should not go forth that soldiers have sheltered behind the letter of a command from facing moral problems - and deciding them, rightly or wrongly, as moral problems. Great captains are not automata to be weighed against a rubber stamp. I need not traverse the history of our military figures - the philosphy of Montrose, the brooding thoughts of Marshal Ney, the troubled heart of Robert E.Lee in 1861, to find examples. Two of the greatest names in German military history spring to one's mind: von Clausewitz leaving the Prussian Army to serve in that of Russia; Yorck von Wartemburg making his decision of neutrality - both put what they deemed the needs of Europe and

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Humanity above the orders of the moment. How much more clear and obvious was the duty when the work of drafting, issuing and carrying out the Nacht-und-Nebel decree, the Commando Order, the Commissar Order, Hitler's Order to murder our 50 Air Force Officers, meant the defiling of every idea which every soldier cherishes and holds dear; when - as all of them who ever served upon the Eastern Front could see with their own eyes - they were asked to support and co-operate in a calculated system of mass extermination and utter brutality.

These men, of all men, knew their leader to be a callous murderer, yet for years they had met in conference after conference to sit at his feet and listen to his words. They fed his lust for power and enslavement with the best of their professional skill. While the defenseless peoples of the East, the men, women andchildren of Poland, of the Soviet Union and of the Baltic States were being deliberately slaughtered and deported into slavery to allow for German Lebensraum, these men talked of the necessities of war. When their own cities were bombed and Germans killed, they called it murder. Only in July 1944 when Hitler's star was dimmed did three Field Marshals and five Colonel Generals recognize that he was murdering also their own country and take action. When that star was rising in victory they had hailed it and ignored the blood red colour of the clouds from which it rose.

So much for the facts and the merit. It is perhaps permissible to say one word on the construction of the Charter. The use of the two words "group" or"organization" surely connotes that the entity in question may have been either formally organized by the Nazis or selected by the Prosecution as a group which existed in living reality. This group was united by its special knowledge given at so many conferences, and voluntarily bound by the transmission of those criminal orders. For that reason we ask that it should be condemned.

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With regard to the Reichsregierung also I only desire to make clear that the British Prosecution is again asking unhesitatingly for a conviction. Beyond this I wish to make two points only.

Some question has been raised as to the position of those known Nazis who joined the Cabinet in 1933. If anyone in that Cabinet did not know to what he was commiting himself on 30th January 1933, he had a very good idea in March when the Jews were attacked. His knowledge increased in April when the whole nation was organized in boycotting the Jews and the official figures of 20,000 people under arrest were given in the German Press. In June 1934 he knew that murder was being used as an instrument of policy. In 1935 and 1936 he knew that the foreign policy was being carried on at the calculated risk of war.

The other point on which I want to comment is the picture given by the Defense, of Ministers in complete ignorance of what was going on. In my submission, government does not function like that. Whether totalitarian or democratic, a Government can only act by dealing with human beings. The lives of human beings are not lived in watertight compartments; their infinitely varying interests are inextricably interlocked. The most completely authoritarian minister must, as indeed Dr. Kubuschok in his speech was disposed to agree, consider the repercussions of his actions on the acts of his colleagues. In other words, he must know what is going on.

It is because the men of this group knew what was going on, supported it and took the principal positions and richest rewards of the State for themselves as the price of such support, that we ask for the conviction of the organization today.

I have endeavoured to show how the SD and the Gestapo fit in to the scheme of the Nazi State. As one would expect, the evidence that I have mentioned introduces them in innumerable ways. Beyond once more emphasising my support of my colleagues' plea for their conviction, I do not intend to comment further upon those organizations.

My Lord, I am deeply conscious that one of the greatest difficulties and not the least of the dangers, of this trial is that those of us who have

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been engaged day in and day out for 9 months have reached the saturation point of horror. Shakespeare attempted to picture that saturation point in the memorable lines:-

"Blood and destruction shall be so in use
And dreadful objects so familiar
That mothers shall but smile when they behold
Their infants quartered with the hands of war;
All pity chok'd through custom of fell deeds;"

It is only when we stand a little apart from what has been out daily companion for 40 weeks that we realise that the "domestic fury and fierce civil strife", the results of which Mark Anthony was prophesying, are an inconsiderable bagatelle beside the facts which we have had to consider.

It is not merely the quantity of horrors -- although these organizations have been the instruments of death for 22,000,000 people -- it is the quality of cruelty which produced the gas chambers of Auschwitz or the routine shooting of Jewish children throughout a Continent claiming to be civilised. There is not one of these organizations which is not directly connected with the sorry trade of murder in a brutal form. Who can doubt that the Reich Cabinet knew of the euthanasia used to conserve the physical resources of Germany for war? It is beyond question that the High Command and General Staff passed on these orders of which you have heard so much and which are all reduced in the end to plain murder; the Leadership Corps' shared in killing Jews and ruining the bodies of slave labourers. I have simply to mention the SS and the crimes come unbidded into the mind without any words of mine. Conniving, assisting and finding a reason for these crimes were the SD and the Gestapo. The SA trained its Baltic recruits to reach the SA standard which came to fruition in the Ghetto of Kaunas or the pit at Vilna.

The late President Woodrow Wilson once said:

"It is indispensible that the Governments associated against Germany should know beyond a peradventure with whom they are dealing."

If Europe is to be cleansed of Nazi evil it is indispensible that you and the world should know these organizations for what they are.

It has been our sombre task to assist you to this knowledge; having

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done so, we sometimes wonder if the stench of death will ever wholly pass from our nostrils. But we are determined to do out utmost to see that it will pass from Germany, and that the spirit which produced it will be exorcised. It may be presumptuous for lawyers, who do not claim to be more than the cement of society, to speculate or even dream of what we wish to see in its place. But I give you the faith of a lawyer. Some things are surely universal: tolerance, decency, kindliness. It is because we believe that there must be a clearance before such qualities will flourish in peace that we ask you to condemn this organization of evil.

When such qualities have been given the chance to flourish in the ground that you have cleared, a great step will have been taken. It will be a step towards the universal recognition that

> "sights and sounds all happy as her day,
> And laughter learnt of friends, and gentleness
> And hearts at peace"

are not the prerogative of any one nation. They are the inalienable heritage of mankind.

THE PRESIDENT: The Tribunal will adjourn.

(A recess was taken)

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MR. DODD: Since the 20th day of November 1945, this International Military Tribunal has been in almost continual session. In these many months, a record of more than 15.000 pages has been compiled. Over 300.000 affidavits have been submitted; about 3.000 documents have been offered and oral testimony has been heard from some 200 witnesses.

This great mass of evidence, oral and written, almost exclusively of German origin, has established beyond question the commission of the crimes of criminal conspiracy, aggressive war, mass murder, slave labor, racial and religious persecutions and brutal mistreatment of millions of innocent people. The four prosecuting powers have indicted and hold responsible for these frightful crimes as individuals the twenty-two defendants named in the Indictment.

But the four prosecuting powers recognizing that the twenty-two individual defendants could not by themselves alone accomplish the execution of these enormous crimes, have also named in the Indictment the Nazi organizations, as the principal media, by and through which these transgressions were effected. These organizations -- some Nazi-created, some Nazi-perverted -- were the agencies upon which the defendants relied and through which they operated for the accomplishment of their criminal purposes over the complacent people of Germany and over the conquered peoples of Europe.

The named organizations fall into two classes: In the first class are those which are peculiarly Nazi creations, having no counterpart outside the Nazi regime and which had no intrinsically legitimate purpose. This group includes the Politische Leiter, the SA and the SS. In the second class are those which existed in one form or another before the Nazi regime but which were corrupted by the Nazis.

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This group includes the Reich Cabinet, the High Command and General Staff, and the Gestapo. As to this second class, it is not our contention that the Institutions themselves were basically criminal, but rather that they became criminal under Nazi domination. Although, by its very nature as a secret political police system, the Gestapo was the most easily adapted to criminal purposes and became one of the most effective of all instruments of Nazi criminality.

It would be a mistake to consider these organizations named in the Indictment, as isolated, independently functioning aggregations of persons, each pursuing separate tasks and objectives. They were all a part of, and essential to, the police state planned by Hitler and perfected by his clique into the most absolute tyranny of modern times. That police state was the political Frankenstein of our era, which brought terror and fear to Germany and spread horror and death throughout the world. The Leadership Corps of the Nazi Party was its body, the Reich Cabinet its head, its powerful arms were the Gestapo and the SA, and when it strode over Europe its legs were the armed forces and the SS. It was Hitler and his cohorts who created this police-state-monster, and it brought Germany to shame and the nations of Europe to ruin.

It would likewise be erroneous to view the structure of this police system as something casual or its growth and development as normal political phenomena. For it was all planned from the earliest days by the conspiratours. The Nazi "old fighters" had a design for despotism. They built the SA at the outset as a private band of strong-arm men to wield the club against the political opponent and the whip against the Jew. They established the SS as the dread guard of the Fuehrer and of themselves. When they seized power they abolished police protection and substituted police

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persecution as the mission of the Gestapo. They wiped out all semblance of free government and set themselves up in the Reich Cabinet with plenary powers. They depraved the highest traditions of military ethics and substituted "willing tools" for ranking men at arms. They obliterated all other political parties and fastened on the German people a political straight jacket in the form of the Leadership Corps.

Deprive the Nazi conspirators of these organizations and they could never have accomplished their criminal aims. Take away the SA and they would have lost the mastery of the streets; take away the SS and they would have had no concentration camp system; take away the Gestapo and they would have had no means of illegal arrest and unlimited detention; take away the Reich Cabinet and they would have had no subservient law-making body; take away the truckling military men and they could not have secretly planned their attacks or ultimately waged their wars.

The provisions of the Carter empowering the Tribunal to declare a group or organization criminal, and the functions of the Tribunal under those provisions, have been dealt with in the legal arguments and memoranda previously submitted to the Tribunal by the Chief Prosecutors. At that time, in response to the request of the Tribunal, Mr. Justice Jackson stated the grounds which, in our view, warrant declaring a group or organization criminal.

Before now undertaking to summarize the evidence, it may be well to restate those tests:

1. It must be a "group" or "organization" within the meaning of Article IX of the Charter--i.e., it must be an aggregation of persons, associated in some identifiable relationship, having a collective general purpose or pursuing a common plan of action.

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2. Membership in the organization must have been basically voluntary, i.e., the membership of the organization as a whole, irrespective of particular cases of compulsion against individuals or groups of individuals within the organization must not have been due to legal compulsion.

3. It must have participated directly and effectively in the accomplishment of the criminal aims of the conspiracy, and it must have committed crimes against the peace or war crimes or crimes against humanity, as charged in the Indictment.

4. The criminal aims or methods of the organization must have been of such character that its membership in general may properly be charged with knowledge of them.

5. Under the Charter the Prosecution must also establish that at least one of the defendants in the dock who is a member of the organization, is guilty of some act on the basis of which the organization may also be declared criminal.

These are the tests of criminality which the American Prosecution has conceded must be met with respect to each organization before a declaration of criminality as to that organization is warranted. My distinguished colleague, Sir David Maxwell-Fyfe, has discussed in his address the evidence against most of the organizations; and the Russian and French Chief Prosecutors will review specific crimes committe by these groups. I shall not discuss the High Command since it is to be the subject of a special argument by a member of the American staff. I shall, with the consent of the

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Tribunal, address my remarks to the general proposition of whether the Prosecution has sustained the burden of proving by competent evedence that each of the named organizations is criminal under all of the principles stated.

The evedence clearly establishes that the five organizations in question are groups or organizations as we interpret these terms in the Charter --that is, each is an an aggregation of persons, associated in an identifiable relationship having a collective general purpose.

That the Political Leadership Corps were an identifiable aggregate, had a common purpose, and functioned as a group, is clear. Ample evedence as to the structure and functions of the Leadership Corps of the Party is to be bound in Nazi publications -- the Organization at Book of the NSDAP, " der Hoheitsträger"; the official magazine of the Leadership Corps, in the chart of the Leadership Corps, and a chart of the Party itself. This group some 600,000 strong had special uniforms, carried special membership cards enjoyed countless special privileges. The term "Politische Leiter" is not one we have invented for the purpose of giving an appearance of cohesion to a number of unrelated individuals performing similar, but uncoordinated, functions in the Party. The Organization Book of the Party itself deals with all these Party workers as a unit under the designation "Politische Leiter". It shows the hierachrchical structure under which they were organized and the manner in which directives were passed down automatically through the chain of command to the lowest level and were carried into effect by all members of the group. It shows further that in the functioning of this corps, the Leadership principle reached perfection. All Party workers were bound by identical oaths to unconditional obedience to the Führer and to all leaders appointed by him. At each level, regular and frequent conferences were held and the higher and lower levels

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met together periodically for discussions of policy. The Leadership Corps constituted a perfect pyramid in which every stone at every level was necessary to maintain the whole structure. It had one single, common pupose -- the maintenance of the organization and ideology of the Nazi Party.

The Indictment defines the Reich Cabinet as consisting of three classes of persons:
(1) members of the ordinary cabinet after 30 January 1933;
(2) members of the Council of Ministers for the Defense of the Reich; and (3) members of the Secret Cabinet Council. These three classes together make up the group of 48 members which we are prosecuting under the designation "Reichsregierung". Each of these, taken by itself, constitutes an identifeable aggregate working toward a common end. The ordinary cabinet of any government is as clear an example of a group as could be found. The ordinary cabinet of the Nazi Reich did not differ in that respect from similar institutions in other governments. It met frequently as a cabinet in the early days of the Nazi regime, and when meetings thereafter became uncommon, it continued to function as a group in passing on decrees and laws through the procedure of circulating drafts of proposed enactments to all its members. An example of this procedure is before the Tribunal in the form of a memorandum from the Defendant Frick to the Chief of the Reichs Chancellory.
The same cohesion and unified function is found in the Council of Ministers for the Defense of the Reich, which was established in 1939. Like the ordinary cabinet, its members consulted together in actual meetings as shown by the minutes of such meetings in September, October, and November, 1939. And, like the ordinary cabinet, it also functioned by using the circulation procedure, a typical instance of which is the letter from Dr.Lammers 17 September, 1939, to members of the Council of Ministers for the Defense of the Reich. The

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Secret Cabinet Council, an advisory body on foreign policy, consisting of eight members, was an identifiable unified aggregation as appears from the decree which created it. The inclusion of these three classes under the single designation "Reichsregierung" is not an attempt to create an artificial relationship among three separate and independent entities. Actually, the three were collectively as much a group

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as each was independently, for the Council of Ministers for the Defense of the Reich and the Secret Cabinet Council were really committees formed out of the ordinary cabinet. The decrees creating these two committees demonstrate that the entire personnel was composed of individuals who were in the ordinary cabinet. Not only in personnel, but in action, functions, and purpose as well, the ordinary cabinet and its committees were unified. Member of the ordinary cabinet who were not members of these committees, were nevertheless, present at meetings of the Council of Ministers, as shown by minutes of such meetings, and, under the circulation procedure, received drafts of decrees prepared by the Council of Ministers. This aggregation---the cabinet and committees formed of some of its members--had a single collective purpose, that of governing the Reich in such a fashion as to carry out the schemes of the Nazi conspirators.

The SA, which was created in 1920, is one of the simplest examples of the type of group or association contemplated by the provisions of the Charter. It was defined by a German Law as a component of the Party, having its own legal personality, and it was characterized by the Nazi Party Organization Book as a distinct entity. It had an identifiable membership of from 1,500,000 to 2,000,000 members, bound together by common standards, wearing a common and distinctive uniform, having common aims and objectives and carrying on common activities. The general purpose of the SA, to which the whole membership was devoted, was stated in the Organization Book of the Party, " to be the bearer of The National Socialist armed will", and, according to the same Party manual, a member had to withdraw if he no longer agreed with the SA views or was not in a position to fulfill completely the duties imposed upon him as a member of the SA.

Like the SA, the SS was beyond question a unified organization. It was established by German law as a component of the Party having its own legal personality. It was described in the Organization Book of the Party as a "homogeneous firmly welded fighting force bound by ideological oaths." It had a clearly identifiable

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membership which rose to about 600,000 toward the end of the war, composed of persons who met the same basic uniform standards of race ideology. Despite its many functions and activities, and its numerous departments and offices and branches, it was an integrated and unified organization and it was, according to Himmler's tirade to the SS Gruppenfuehrers on 4 October, 1943: "One bloc, one body, one organization". It had of course its own uniform and enjoyed special privileges while pursuing the general purposes of the Nazi conspirators running all the way from neighborhood bullying through political, racial and religious barbarities to the waging of wars of aggression, and the most violent and revolting crimes against humanity.

From its earliest days, the Nazis always regarded that portion of the police forces called the "Gestapo", or " Secret State Police", as a separate group, a clearly identifiable aggregate performing a common function. The very purpose of Goering's decree of 26 April 1933, establishing the Gestapo in Prussia was to create in that province a single body of secret political police, separated from the other Prussian police forces, an independent force having its own particular task, on which he could entirely rely. The same motives led to the establishment of similar identifiable groups of secret political police in other German provinces. The steps by which these groups were all consolidated into a single secret political police force for the whole Reich are fully detailed in the decrees and laws which have been cited to the Tribunal. When the RSHA was created in 1939 the Gestapo was not dispersed, but became a distinct department of that central office, as shown by the Chart of the RSHA introduced in evidence, and by the testimony of the witnesses Ohlendorf and Schellenberg. They easily estimated the number of persons in the Gestapo at from 30,000 to 40,000.

Throughout these proceedings, the Gestapo and the SD have been considered together due to the fact that criminal enterprises with which each is chargeable were supported, to a greater or lesser degree, by both. The Indictment charges the Gestapo with

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criminality as a separate and independent group or organization. The Indictment includes the SD by special reference as a part of the SS, since it originated as part of the SS and always retained its character as a Party organization as distinguished from the Gestapo which was a State organization. The SD, of course had its own organization, an independent headquarters with posts established throughout the Reich and in occupied territories and with agents in every country abroad. It had a membership of from 3,000 to 4,000 professionals assisted by thousands of honorary informers, known as V-men, and by spies in other lands; but we do not include honorary informers who were not members of the SS. Nor do we include--and I insert this---members of the Abwehr who weretransferred to the SD toward the end of the war, excepting insofar as such Abwehr members also belonged to the SS.

Now, if it is asked where the ubiquitous SD man is to be found, the answer is not at all difficult, although some of the testimony and arguments made before the Tribunal have been confusing, we fear.

Until 1939 the SD man was always to be found in the head office of the SD, of the Reichsführer SS, or in the various regional offices of the SD throughout the Reich. During that period the SD was repeatedly identified as a department of the SS in SS organization charts and plans and by-laws and decrees issued by the government.

During this period the SD was the political intelligence agency of the SS, the Party and the State, and it provided secret political information to the executive departments of the State and Party, but particularly through the Gestapo.

After 1939 the SD man is to be found in offices III and VI of the RSHA, and in the various regional SD offices within Germany, in the occupied territories, and in the Einsatz groups of the Security Police and the SD in areas close behind the front.

In the course of the argument some confusion has also arisen over the characterization of the RSHA, WVHA, Department Eichmann, and Einsatz groups.

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The RSHA was a department of the SS and substantially all of its personnel belonged to the SS. It was under the command of SS Obergruppenfuehrer Kaltenbrunner. In addition to the SD, which was always an SS formation, it included the Gestapo and the Reich Criminal Police, both of which were state agencies. For this reason the RSHA was also carried as a department of the Reich Minister of the Interior.

The WVHA was strictly another SS department. The WVHA was under the leadership of SS Obergruppenfuehrer Pohl, who was charged with the administration of concentration camps and the exploitation of the labor of the inmates.

There was no Department Eichmann as such. Eichmann was simply the head of the department of the Gestapo which was charged with matters pertaining to the churches and to the Jews. It was this department of the Gestapo which had primary executive responsibility for the rounding up of the Jews of Europe and the committing of them to concentration camps. The Eichmann Department, so-called, within the Gestapo, was no more independent of the Gestapo than any other department under Mueller.

The Einsatz Groups of the Security Police and SD--and it is very important, we think, that the full title be held in mind at all times--were the offices of the Security Police and SD operating in the field behind the Army. When police control had been sufficiently established in newly occupied territories, the mobile Einsatz Groups were eliminated and they became regional offices under the commanders of the Security Police and SD in occupied territory The Einsatz Groups were a part of the Office of the Security Police and SD, the RSHA, and as such were a part of the SS, limited only by the fact that some personnel assigned to the groups were not members of the SS.

In 1939, the main offices of the SD and the Gestapo were consolidated in the RSHA, but the SD at all times preserved its independent identity.

Surely the prosecution has met the requirements of group

proof as to these organizations, not only by the standards which it has imposed upon itself but as well by every ordinary rule of reason and experience.

Membership in the Leadership Corps was indisputably voluntary. No one was compelled to join the NSDAP much less to become one of the leaders of the Nazi Party. We do not doubt that many joined the Leadership Corps for business, social, or other selfish reasons. These are the commonplace motives for cheap political prestige but they cannot and do not amount to legal compulsion.

No one was drafted into the Reich Cabinet. Moreover, some of its members resigned when they found themselves in conflict with its aims and objectives. Schlegelberger left because of the infringement of the independence of the judiciary; Schmitt resigned because he was convinced that Hitler's course was the way to war; Eltz von Rudenschloe resigned because of Hitler's policies against the Christian Churches. A place in the Nazi Cabinet circle with its titles and tinsel was the high ambition of most of the Nazis. Competition for these places was fierce and any present effort to fend off a declaration of criminality against this group with a pretense of membership by force is ludicrous.

So free of compulsion was membership in the SA that the Party Organization Book, as late as 1943, urged SA men to withdraw from the organization if they felt they were unable to agree with the aims and ideology and to fulfill all the duties imposed upon them. Party members were not forced into the SA lists. The controls and the disciplines imposed on SA members within the framework of the organization have nothing to do with the voluntary character of the membership itself. The willing submission of the SA man to the SA Command is not the same thing as compulsory and involuntary entry into the organization.

Applicants for the SS not only were volunteers but in addition they had to meet the strictest standards of selection, as is illustrated in the SS Soldiers Manual, and by Himmler's insistence on free and voluntary applications for membership as set out in

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his letter of 1943 to Kaltenbrunner. The SS characterized itself as an elite and select corps, advertised that it carefully weeded out every applicant who did not conform to its racial, biological, and ideological standards, and made it plain to everyone that unusual qualifications were required for membership. Such in fact was Himmler's boast to the Wehrmacht when he said, and I quote: "Should I succeed in selecting from the German people for the organization as many as possible who possess this desired blood and in teaching them military discipline and in the understanding of the value of blood and the entire ideology resulting from it, then it would be possible actually to create such an elite organization as should successfully hold its own in all cases of emergency"

The "elite" were required to establish Nordic descent: In the case of an officer applicant as far back as the year 1750, and for regular applicants to the year 1800. In addition, unusual physical standards of height and off requirements of Nordic appearance were set up and the political and ideological background of every "elite" candidate was carefully scrutinized. It is highly significant that we have proof of insistence on these racial and ideological qualifications as late as 1943, even in the Waffen SS. It has been argued that because some men were conscripted into the Waffen SS in the last desperate stages of the war, the organization as a whole was not a voluntary one. Those who were actually forced into divisions of the Waffen SS may have an adequate defense in subsequent hearings, but we insist that compulsion born of a frantic effort to stave off defeat in the closing hours of the war does not change the essentially voluntary aspect of the membership as a whole. Whatever pressures may have been exerted to expand the membership of this organization it originated and remained basically voluntary and selective.

The SD as a part of the SS was composed of SS men with special qualifications. The deeds of this organization best explain the nature of these special qualifications, for the record in this case is replete with horrible tales of their

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doings. The SD man was simply a surcharged SS man. If the membership of the SS was basically and fundamentally voluntary, as we claim it was, then it follows automatically that the SD membership was likewise voluntary.

The Gestapo was at all times a State organization, a branch of the government similar in all usual respects to other branches of the government. In considering the voluntary character of its membership, all other considerations are secondary to this basic determination of the Gestapo as an agency of State. If membership in the Gestapo was compulsory, membership in the Order Police, and in the Department of Safety, and in the Department of Finance must have been compulsory. When the Gestapo was created, following the seizure of power, it is true that many members of the previously existing political police system of the various Laender were transferred to it. But they were under no legal compulsion to join. As the Gestapo affiant Losse stated, and I quote from his affidavit "If they had refused, they would have had to reckon with a dismissal from the service without pension so that unemployment would have threatened them". The witness Schellenberg stated that new members of the Gestapo were taken on a voluntary basis. Any one of them could have resigned and sought employment in other branches of the Government or in positions disassociated from Government service. To become a member of the Secret State Police, a person applied for a position just as in any other branch of Government. The witness Hoffman, in testifying before the Commission, stated that he applied for a job in three branches of the Government of which the Gestapo was one. The Gestapo accepted his application and in that way he became a member of the organization. There was nothing to prevent a Gestapo official from resigning his position if the aims and activities and methods of the organization became repugnant to him. The witness Tesmer testified before the Commission that if an officer refused to carry out a criminal order he probably would be removed from his employment. Even after the war began, when all Governmental officials were more or less frozen in their positions, members of the Gestapo were able to resign. The witness Tesmer himself resigned from the Gestapo during the war, and the witness Straub testified that a person could resign his position in the Gestapo at the risk of going to the front in active military service. Surely this was not compulsion in any legal sense. The sacrifices which members of the political

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police might face upon resignation, such as loss of seniority and forfeiture of pension rights may have seemed decisive to those who remained in the Gestapo, but such considerations could under no circumstances be construed as legal compulsion justifyin continued membership in an organization of such notorious criminality. There may be particular instances where some members of the army secret field police were later transferred from the military to the Gestapo. In such instances, these individuals may have gained on the basis of military orders a personal defense to the crimes committed by the Gestapo during the period of their membership. But such special instances justiciable in subsequent proceedings, can in no way affect the basic character of the Gestapo as a single department of the Government with no greater degree of compulsion to join and no greater legal restraint from resigning than any other department of the State.

Now, it takes character to stand up against great evil -- this has always been so. It may be necessary for a man to brave some humiliation and some sacrifice, in order to refuse to do the evil bidding of an evil master. But responsibility for the crimes of these organizations should not be evaded by the application of a dry, technical or meaningless concept of compulsion.

From the establishment of the Nazi Party in 1920, until the conclusion of the war in 1945, these organizations were used by the conspirators for the execution of their schemes and each committed one or more of the crimes described in Article VI of the Charter and participated in the general conspiracy. The Leadership Corps was the first of the organizations to appear on the stage. The next step was the creation in 1920 of a semi-military organization, the SA, to secure by violence a predominant place for the Party in the political scene. Out of this group, the more select and fanatical SS was formed in 1925, to replace the SA while the latter was banned, and then to join with it in laying the groundwork for the revolution. Upon the seizure of power in 1933, the next organization, the Reich Cabinet, took its place in the conspiracy. With the Government in their hands, the conspirators hastened to suppress all potential opposition, and to that end they created the Gestapo and the SD. Internal security having been guaranteed, they then obtained for promotion of their plans of aggrandizement the last of their implements in the form of the militar

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Each ot these was necessary to the successful execution of the conspiracy-- the Leadership Corps to direct and control the Party through which political power had to be seized; the SA and SS to oppose political opponents by violence and, after 1933, to fasten the Nazi's control on Germany by

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extra-legal activities; the Cabinet to devise and enact the laws needed to insure continuance of the regime; the Gestapo and the SD to detect and suppress internal opposition; and some servile soldiery to prepare and carry out the expension of the regime through aggressive war.

Each of the organizations continued to play a necessary and vital part at all times throughout the conspiracy. The program of the Nazi regime stemmed from the Nazi Party. As Hitler said in 1933, "It is not the State which gives orders to us, it is we who give orders to the State." and later in 1938 he added, "National Socialism possesses Germany entirely and completely since the day when, five years ago, I left the house in Wilhelmplatz as Reich Chancellor ..... The greatest guaranty of the National Socialist revolution lies in the complete domination of the Reich and all of its institutions and organizations, internally and externally, by the National Socialist Party." It was the Leadership Corps that formulated the policy of that Party. It was the Leadership Corps that held the Party together. It was the Leadership Corps, through its descending hierarchy of fuehrers, down to the Blockleiter who controlled forty households, that kept a firm grip upon the entire populace. Every crime charged in the Indictment was a crime committed by a regime controlled by the Party, and it was the Leadership Corps which controlled the Party and made it function.

While the Party, through the Political Leaders, gave orders to the State, it was the Reich Cabinet - - the law-making, executive and administrative representative of the State -- that transformed those orders into laws. Just as the Leadership Corps made the Party function, so the Cabinet made the State function. Every crime which we have proved was

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a crime of the Nazi State, and the Reich Cabinet was the highest agency for political control and direction within the Nazi State.

But policy and laws are not enough. They must be put into effect and carried into operation. The four other organizations were the executive agencies of the Party and the State. When it was a question of enforcing laws, of detecting, apprehending, imprisoning and eliminating opponents or potential opponents, the SD, the Gestapo, the SS and the machinery of concentration camps came into play. The close relationship between the SD and the Gestapo and the importance of the former in selection of Nazi officials is disclosed by the defense affidavit of Karl Weiss who averred that all political police officials were screened by the SD before being accepted into the Gestapo. And the SD violated the integrity of German elections by reporting how the people voted in secret ballots. When the policy called for war, the para-military organizations like the SA and SS laid the foundation, and top militarists prepared the plans for a powerful German army. When it became a question of exterminating the population of conquered territories, of deporting them for slave labor and of confiscating their property, the OKW and the SS had to plan joint operations and, in collaboration with the Gestapo, to carry them into effect. Thus, the Party planned, the Cabinet legislated, and the SS, SA, Gestapo and the military leaders executed. The manner in which this was done can be illustrated by taking up a number of the principal crimes alleged in the Indictment and showing how the five organizations participated in the commission of each crime.

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The basic program for aggression is to be found in the Nazi Party program of twenty-five points proclaimed by Hitler in 1920 and declared unalterable. It included demands for the unification of all Germans in Greater Germany, for the abrogation of the treaties of Versailles and St. Germain, for land and colonies and for the creation of a national army. As the Party Manual shows, this platform was the table of commandments, and from it was drawn the dogma for every Political Leader. All members of the Leadership Corps bound themselves to follow these precepts and to spread this doctrine.

As early as April 1933, the Cabinet, by resolution, created the Reich Defense Council, a body of cabinet members whose function was to prepare the nation for war. In October 1933, the Cabinet proclaimed Germany's withdrawal from the League of Nations and the Disarmament Conference. A year and a half later, in March 1935, it reestablished the Wehrmacht and provided for compulsory military service. Its war planning measures were carried further by its enactment in May 1935 if a secret unpublished Reich Defense Law, providing for the appointment of a plenipitentiary-general for war economy with sweeping powers, and its decision that the plenipotentiary should begin his work at once, even in peace-time. In February 1938, on the eve of the seizure of Austria, a second component of the Reich Cabinet, the Secret Cabinet Council, was created to advise Hitler in conducting foreign policy. And it was the defendant von Neurath,

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the President of that council who took diplomatic steps to justify and excuse this aggressive action. After the seizure had been accom-plished it was the Cabinet which providet for the reunion of Austria with the Reich. Six month later, by annother secret and wholly unpublished law, the Cabinet provided for a three-man college of plenipotentiaries whose function was to have prepared at all times complete plans and ready measures for the sudden and not-to-be-declared war. In November 1938, ist was a Cabinet law which provided for the integration of the Sudetenland with Germany, and in March 1939 for the incorporation of Memel into Germany. The Tribunal will remember the dramatic meeting of the Reich Defense Council held in June of 1939 where preparations were completed for the coming war and datailed plans were approved such as using prisoners of war and concentrationscamp inmates for war production, compulsory work for women in war time, and the bringing of hundreds of thousands of workers from the Protectorate to be housed together in hutments. In August 1939, on the eve of the attack on Poland, the Ministerial Council for the Defense of the Reich, the third component of the Reich Cabinet, was created out of members of the Cabinet to act as a smaller working group in the exercise of legislative and executive wartime powers. Thereafter, it was this component of the Reich Cabinet, rather than the ordonary cabinet, which enacted most of the legislation for carrying on the war, but with the knowledge and participation of the entire membership of the ordinay Cabinet.

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While the Cabinet was thus preparing the legal and administrative framework for aggression, the other organizations were actively engaged in related preperations to the same end. An aggressive militaristic psychology on the part of the people and the building up of a powerful army were essential to prepare the nation for war. To the Attainment of these ends, the SA assiduously devoted itself. First in 1933 by engaging in an intensive propaganda campaign demanding colonies, Lebensraum, the abrogation of the Treaty of Versailles, falsely attributing aggressive designs to Germany's neighbors and generally spreading the now well-known party bromides. Almost simultaneously, ist organized an training program for German youth in the technique of modern war, at first, in dark sececy but finally in the open when it felt itself sufficiently prepared and was sure of no outside interference. But the SA did not confine itself to mere preparations. When the first aggressive action, that against Austria was taken units of the SA marched through the streets of Vienna and seized the principal government buildings and in the plans for the seizure ofthe Sudetenland, the SA formed a part of the Henlein Free Corps and furnished it with supplies and equipment.

The activities of the SS were similar to the SA and even more widespread. Like the SA, it served as a paramilitary organization in the years preceding 1933. Like the SA , it participated in the aggression against Austria and in the conspiracy to undermine Czechoslovakia, through the Henlein Free Corps. Its activities are distinguishable from those of the SA in these matters only because it played the more important part.

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Its professional combat forces joined with the army in marching into the Sudentenland and Bohemia-Moravia, and in the invasion of Poland. One of its main departments, the Volksdeutsche Mittelstelle, was a center for fifth column activities. The SD of the Reichsfuehrer-SS operated a network of spies throughout the world and its agents were spying in the United States before Germany declared war upon America. The largest branch of the SS, the Waffen SS, was created and developed for the sole purpose of carrying on the war and perticipated, as an SS army, in all phases of the war in the East and in the West. Its shameful record of war atrocities needs no amplification here. The Gestapo and SD were likewise involed in the commission of crimes against the peace. The very incident that served as an excuse for the invasion of Poland, and thus set off the intire war, ws executed by the Gestapo and the SD. I refere to the simulated Polish attack on the radio station at Gleiwitz, where concentration camp prisoners were dressed in Polish uniforms, murdered and left as evidence of a Polish raid, so as to afford Hitler a justification for the attack upon Poland. Of course the professional military clique planned and participated in all aggressions from the militarization of the Rhineland in 1936 to the attack on Soviet Russia in 1941.

The waging of these wars of aggession was possible for Germany only by the utilization of millions of enslaved workers, and the slave labor program was possible only with the assistance of these organizations.

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Sauckel was the master slaver but he needed a million party whips to enforce his merciless dictates. The SS, the Gestapo and the SD at his bidding drove the foreign serfs within the Reich borders under the lash of deceit, of kidnapping, of heart-breaking family separations, of arson, of torture and of murder. The Leadership Corps in cooperation with the Nazi labor front and with industrial management were Sauckel's receiving agents for these unfortunate ones. At the Reich level and at the Gau level members of the Leadership Corps helped arrange for the conditions of bedding, feeding and restraining these wretched humans giving them less attention and less decent concern than primitive men often gave to his brutes. The Gauleiters functioning as Reich Defense Commissars, at the order of Speer and Sauckel, and under the most revolting conditions of conveyance shunted the shunted the slaves from receiving depots to armament industries where like stanchioned beasts they were submitted to sub-human indignities and worked to death. Medical care and even the most simple medical supplies were refused them. Denied even the social advantages of the barnyard they struggled under less then good stable standards. With a crassness unknown to ordinary domestic animal care directives providing for the abortion of female laborers were distributed to Gauleiters and Kriesleiters and their staffs. Their keepers were of the Gestapo and the SD and the cell blocks of the concentration camp awaited any who chafed under the cruelty. Urged on by Speer, the Gauleiters utilized prisoners of war for slave labor purposes and Rosenberg's minions in the Eastern territories under the spur of Sauckel's demands gleaned new millions for thralldom. The army harnessed thousands for the construction of military fortifications and for military production, and Keitel carried out Hitler's order by hitching honorable soldier-war-prisoners to machines that made materials for war. The greedy Goering sought war prisoner slaves for his air armament industries and suggested new uses for old orders violating recognized codes of warfare, and his aid Milch, thought of the forced use of Russian prisoners of war to man anti-aricraft batteries as comedy relief for the oppressive madness of the times. Depravity supplanted degradation and death became the declared objective of concentration camp labor establishments under the SS. Of necessity

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all of this went on with high Cabinet approval as the impact of this whole terrible program created new problems for Germany.

So the slaves suffered in the midst of the German population as thousands of them were farmed out for better or for worse to householders, to great and to small industries. Until, at last, in the closing hours of the conflict, under pressure of the grim necessities of the war situation and solely to increase the war effort, the Nazi Government itself was forced to issue an order to slacken the violence against those who were in chains. The great significance of this order cannot be overstated. By its own terms, it makes perfectly clear that cruelty to the slaves was a state policy carried out by the German people. It is damning evidence against the whole German nation. It is, in our judgment, one of the most important documents in this case and it is shocking to realize that it came from the Party Chancellery and the Reich Security Main Office -- both high state agencies; and it was directed, in writing, to all political leaders down to Ortsgruppenleiters, and to the lowest level of German society by word of mouth.

The sweep of the crimes committed against the Jewish people is too great for the human mind to completely grasp. Our whole experience in living conditions our mental processes to make it so. We shudder at one bestial murder, we shrink from a few disgusting crimes, but when confronted with mass horror, we find ourselves groping for adequate reaction. We simply cannot comprehend six million murders. In the regular course of life it is good that this is so; but in weighing the evidence in this case it is something of a handicap for all parties except the guilty. Of some facts, however, we do have full knowledge and full understanding. They are all in evidence before this Tribunal. We know that these indicted organizations all share responsibility for the vast crimes committed against the Jewish people. We know that the evil geniuses of the Nazi plan understood how to nurture a nation for hatred. They began easily by having the Leadership corps write into the Party platform that only a member of the race could be a citizen. Thus they laid the groundword for the basic premise upon which Jews were deprived of human rights in Germany. Then the same Leadership Corps began

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the work of directing a campaign of abuse against the whole Jewish people. Every man's failure, all worry, each disappointment, any fear, was resolved in the crucible of Jewish responsibility. Throughout the Reich, Jew-baiting committees were established under the direction of various political leader And led by Gauleiter Streicher, Party members engaged in open violence agains Jews and their property by destroying the synagogue here in Nurnberg. Then came the hideous occurrences on the night of November 10, 1938, under the incitement of Party propaganda leader Goebbels and with the open assistance of the Leadership Corps and the SA. To add mockery to malefaction, the Nazis set up a supreme party court to investigate these outrages and although it found that instructions for carrying out these pogroms had been telephoned by the Gauleiters to their subordinate leaders, it ruled that in the killing of Jews without orders or contrary to orders: "at heart the men were convinced that they had done a service to their Fuehrer and to their Party".

Throughout the years, as this hate movement progressed, all manner of discriminatory legislation was enacted to restrict the mobility of the Jew, to impoverish him, and to degrade him. Great numbers of these legislative monstrosities, all the creations of the Reich Cabinet, are in evidence in this record. With quickened pace the Nazis moved to new cruelties and from a mixed-up policy which demanded the departure of the Jew and called for his detention in German concentration camps, they approached the depths of shame in a Reich Cabinet proposal for the sterilization of even half-Jews. In a cold setting of sadism and sin, the Reich Cabinet reviewed the manner in which half-Jews were to be treated and then recommendations of the Cabinet were submitted to Hitler for final action. The SA men were among the first to apply direct force and brutality against the Jewish people in Germany. The witness Severing has told the Tribunal from the witness stand that during the years after 1921 the SA engaged in organized terror against the Jews. These street ruffians, having nearly completed their orgies against ordinary political opponents, now found new uses for their clubs and whips and new outlets for their perverse propensities. Any Jew was fair game and it was open season the year round for Jew-hunting. They smashed into private homes and abused

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the terrified Jewish inhabitants without any pretense of cause or provocation. And they interlaced their physical violence with their constant tirade of slanderous anti-Jewish propaganda.

The oppression, persecution, discrimination and brutality at the hands of the Leadership Corps, the Reich Cabinet and the SA were only the beginnings of the dreadful fate that the Nazis prepared for the Jews. In this fashion, the way was paved for the sinister activities of the Gestapo when it came into play. Now these secret policemen moved in with their wraith-like methods. Trembling Jews were hauled from their beds in the middle of the night and dispatched without semblance of accusation to concentration camps, and often their family members awoke to find them missing. Thousands of Jewish people so disappeared never to be seen or heard of again and all over Europe today surviving family remnants with aching hearts are seeking clues or indications of the fate that befell them. Sad to relate, the only answer to most of the searching is to be found in the records of this Tribunal, in the captured documents of the SS, the SD and the Gestapo, and in the death books of the gas chambers, the mass graves and the crematoria.

By this time the Nazis were astride much of Central Europe. Wallowing in their early bloody successes and puffed up with premature confidence in their ability to dominate the continent, they dropped all sham about the Jew in Germany and laid bare his ultimate doom. The Jew was to be wiped from the face of Europe -- not by migration, not by mass movement, but by annihilation. It was Goering who ordered Heydrich as chief of the security police and SD to work out a "complete solution" of the Jewish problem in the areas occupied by the Reich. And it was Heydrich, as chief of the Security Police and SD and acting upon Goering's order, who instructed the Gestapo to murder all Jews who could not be used for slave labor. Gestapo men, under the leadership of Eichmann, went into the occupied territories, and, with the assistance of local officers of the Security Police and SD, succeeded in herding virtually all of the Jews of Europe into concentration camps and annihilation centers. With unabated fury the Nazis plunged from Goering's "complete solution" to Himmler's "final solution". This was the last responsibility and who but

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Himmler as head of the SS could fulfil this unholy mission. In his foul hands and those of his SS was placed the assignment for the complete destruction of the Jew. He warmed to his task. His SS men, having been tested and proved in the Warsaw Ghetto and in the clearing of the Jews from Galacia, were ready for the refinements of the extermination plants. And with Hitler's order to Himmler, SS exterminator Hoess opened the largest murder mart in history. Two thousand human beings at a time perished in his modern slaughterhouse. All over German-occupied Europe SS plants of the Hoess-Auschwitz design gassed living Jews with dispatch and destroyed their remains in ovens stream-lined for mass operation. Thus the SS made it possible for Himmler to declare in his speech at Posen:

"I also want to take to you quite frankly on a very grave matter... I mean the clearing out of the Jews, the extermination of the Jewish race... this is a page of glory in our history....."

And I would like to say parenthetically, Mr. President, that the quotation which appears on page 29 of the text is incorrect and should be stricken, and the one which I have read is the proper one.

At the close of the war in Europe, an incredulous world recoiled from the fact of this crime -- a crime that can never be completely understood, completely explained, or properly requited. Slowly mankind moved to its sad and sober acceptance. But this was not the end, for the Nazis, through propaganda conduits, had piped their racial and religious poison into most of Europe and to a large part of the world. To restore the moral health of Central Europe is not enough, seepage from Nazi sewers of slander has polluted many of man's Pierian springs and the virus of hate and bigotry and intolerance has fouled the waters. It will take generations of mental and moral sanitation to stamp out this Nazi Plague. Thus the crime lives after the criminals -- these defendants and these organizations.

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The transition from mistreatment of political opponents, of racial and religious groups to the abuse and the killing of prisoners of war in violation of the rules of warfare was not difficult for the members of the indicted organizations. These offenses were the result of the aggressive war aims for which the Reich Cabinet had a direct responsibility. The history of mistreatment of honorable soldiers who had surrendered is too well-known to this Tribunal to require detailed discussion here. Yet it is worthwhile to recall to mind that Reichleiters Goebbels and Bormann, speaking for the Leadership Corps of the Nazi Party, were those who instituted the policy of lynching allied airmen by the German populace. This savage policy was carried out by the Leadership Corps of the Nazi Party, while, at the same time, military units of the SS wantonly executed prisoners of war on every battlefield. To the Gestapo and the SD was given the first responsibility for carrying out the barbaric Hitler order of October 18, 1942, and its subsequent amendments calling for the summary execution of allied commandos and paratroopers. Now should it be forgotten that throughout the war the Gestapo screened prisoner-of-war camps for Jews and those of the Communist political faith who were then deliberately murdered. It was the same Gestapo who sent recaptured officer prisoners of war to the notorious Mauthausen concentration camp for execution by SS guards under the Bullet decree. The Tribunal will recall the document concerning the screening of prisoner-of-war camps introduced in the later stages of the trial which proved conclusively that local Gestapo offices at Munich, Regensberg, Furth and Nurnberg screened prisoner-of-war camps in Bavaria for classes of prisoners of war to be sent to Dachau for liquidation by SS guards, and that these Gestapo offices were criticized by the High Command for failure to screen as effectively as the High Command desired. This crime has been carefully avoided by counsel in pleading the case for the implicated organizations. It is one of the clearest cases of willful premeditated murder of prisoners of war in violation of established International Law. It is positive demonstration of the complete savagery of the responsible organizations with respect to the treatment of prisoners of war. The infamous Bullet Decree under which the Gestapo sent re-captured officer

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prisoners of war to Mauthausen Concentration Camp for execution by SS guards is additional proof of the criminal character of these organizations.

The Nazis always knew that the Christian church was an insurmountable obstacle to their evil intentions, but, with characteristic cunning, they first moved against it under the disguise of necessary emergency legislation, which was enacted by the Reich Cabinet and which laid the groundwork for the later enabling legislation placing all manner of restrictions on usual church activities. This was the first and the decisive step, and once it had been taken, the fate of the Christian church was sealed; only time and the turn of events remained for its fulfillment. In the entire Reich Cabinet of that time, made up almost exclusively of men who pretended to wear the badge of Christianity, only one (Baron Eltz von Rubenach) stood up for the faith. So clear was the intention of the Cabinet decrees, that he had no hesitancy in asserting that Nazism and Christianity could never be reconciled. But for one Eltz von Rubenach, there were many who were willing to play the Nazi game. For a mess of political pottage, they denied their faith and handed to the political leadership its first weapon for use against the clergy. From these first steps, much of the hitherto unexplained moral decadence of the times undoubtedly stems. From these beginnings came the speedily declining influence of the Church. The Nazis wanted it that way. In their political philosophy there was no place for Caesar and for God. Schirach and Rosenberg as Reichleiters and members of the Leadership Corps, together with countless associates, hammered away at all spiritual forces -- never by a frontal attack, but always from the flank, while the hounds of the Leadership Corps carried out systematic slandering of the clergy and constant undermining of sacred religious practices. Soon the anti-clerical campaign was expanded to the confiscation of church properties, and in the later years broke out into open suppression of religious education and even of simple spiritual activities There can be no doubt as to the real attitude toward the Christian Church for it clearly appears in the organized espionage system instituted against the clergy by the Gestapo and the SD. For this shabby task, members of these two organizations were carefully schooled in a deceitful course of conduct rigged

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to establish a record, as a later basis, for the complete abolition of the Christian Church in Germany when the war was over. Lying, falsification, and entrapment were fundamental methods for the building up of this fabricated evidence. The Gestapo, not content with breaking up church organizations and prohibiting church groups from social gatherings, or with its task of preparing false testimony, made wholesale arrests of clergymen, placed them in protective custody, and finally lodged them in concentration camps. From a program of such basic evil, it was not to be expected that the SS would remain aloof. Although heavily occupied with wrong-doing all over Europe, it found time to confiscate church properties and monasteries on its own responsibility and had Catholic priests by the hundreds cruelly murdered in the Dachau concentration camp.

So some Christians and numberless Jews were united in a community of suffering. And thus in a strange arrangement of circumstances, the Nazis who tried to destroy both, may have founded the beginnings of an understanding that can grow best because it has survived the worst.

The concentration camp was the master weapon in the Nazi arsenal of tyranny. To the SA belongs the disgrace of having first established and maintained such camps to which it sent persons whom it had illegally arrested. Even SA meeting places were used for the confinement of potential opponents who were beaten and abused by SA men. SA members served as guards of the state concentration camps during the first months of the Nazi regime, and there applied the technique of brutality which they had acquired in operating their own illegal camps. Although the legal basis for protective custody was the extorted decree of the Reich President for the protection of the State in 1933 which suspended clauses of the Weimar constitution guaranteeing civil liberties to the German people, the Reich Cabinet soon obliged with ready legislation which made more expeditious the internment of political enemies and other undesirables under the concentration camp system. So interested in the establishment of these camps were members of the Reich Cabinet that Frick, Rosenberg, and Funk, while serving in that body, inspected the camps. And the Reich Cabinet budget set aside 125 million Reichsmarks for

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the SS and for the management and maintenance of the concentration camps. In order to achieve domination of the German people, the concentration camp system was placed at the disposal of the Leadership Corps, and it made use of these camps as a dumping ground for thousands of Jews who were apprehended under Leadership Corps auspices during the pogroms of November 1938. As shown by the affidavit of the defense witness Karl Weiss, Gauleiters frequently put pressure upon the Gestapo to commit political enemies to concentration camps or to prevent their release in proper time.

The cooperating military men had a direct interest in the concentration camps system; Soviet prisoners of war were sent to concentration camps to be employed in the armament industries of the Reich, and officers of the OKW worked out with the Gestapo the plans for sending returned Soviet prisoners of war to the concentration camp Mauthausen where they were put to death for honorable attempts to escape from their captors.

But the two organizations which were most directly concerned with and implicated in the concentration camps system were the Gestapo and the SS. In the early days the concentration camps were under the political direction of the Gestapo which issued orders for punishment to be inflicted upon the inmates. The decree of 1936 declared that the Gestapo should administer the concentration camps, but it was the SS which furnished guards from the Death's Head Battalions and ultimately became responsible for all internal administration of the camps. The Gestapo remained the sole authority in the Nazi State empowered to commit political prisoners to concentration camps, although the SD joined the Gestapo in committing Poles who did not qualify for Germanization. The Gestapo sent thousands upon thousands of persons to concentration camps for slave labor and shipped millions of persons to annihilation centers for extermination.

The atrocities committed by the SS within the concentration camps are in themselves adequate to convict the SS as a criminal organization. The witness Hoess testified that toward the end of the war approximately 35,000 members of the Waffen SS were employed as guards in concentration camps.

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In his never-to-be-forgotten confession in this courtroom he said that in Auschwitz alone during the time he was commandant the SS exterminated two and one half million men, women, and children by gassing and burning, and that another half million died from starvation and disease, and among those killed were 20,000 Soviet prisoners-of-war. When the SS did not murder bedridden patients they drafted them for labor which they could perform in their beds. It ordered women prisoners to be beaten by other prisoners, and, in its unrestrained savagery killed, maimed, and tortured inmates of concentration camps by carrying out what were called medical experiments, but which were in fact sojourns in sadism.

The concentration camp system was the heart of the Nazi scheme for tyranny. Conditions in these camps were cruel, because the Nazis required the force of fear to perpetuate their hold over the common people. Behind every Nazi law and decree stood the specter of concentration camp confinement. The agencies which created, maintained, directed and utilized these camps were the organizations named in this Indictment.

In addition to the crimes of waging aggressive war, persecution of the churches, and concentration camps, which we have been considering, the indicted organizations participated in many other crimes in aid of the conspiracy. The Leadership Corps was active in destroying the free trade union movement, and the SA took the initial direct action against the trade unionists. The art treasures of Europe were seized and despoiled by the Einsatzstab Rosenberg of the Leadership Corps in conjunction with the Gestapo and the SD.

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The SS carried out the vicious Germanization program under which citizens of occupied territories were driven from their homes and lands to make way for racial Germans. The Gestapo and officers of the OKW conceived and carried out the hellish "Night and Fog" decree, by which hapless civilians of occupied countries disappeared into the Reich never to be heard of again. Thus, in a crime of which only the Nazis were capable, the awful anguish of relative and friend was added to wanton murder.

In no respect can the criminal activities of these organizations be better illustrated than in the murderous work of the Einsatz Groups of the Security Police and the SD, which were first organized by the SD in September of 1938 in anticipation of the invasion of Czechoslovakia. With their leaders drawn from the SD and the Gestapo and staffed by members of the Waffen SS, they coordinated slaughter and pillage with military maneuvres, and reports of their activities were forwarded to the political leaders through the Reich Defense Commissioners. Even the SA participated in these jackal anti-partisan expeditions in the East.

When the German armies broke into Czechoslovakia and Poland, into Denmark and Norway, the Einsatz bandits followed for the purpose of striking down resistance, terrorizing the population, and exterminating racial groups. So well did these terror specialists do their work, that four new units were set up before the attack on the Soviet Union, one of them headed by the infamous Chief of the SD, Ohlendorf, who testified in this courtroom, to the incredible brutality of his accomplishments, and to the shocking details of the operations carried out in coordination with branches of the

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military. His testimony will be remembered for its cold account of callous murder, enslavement and plunder, and most of all for the horrible program of destroying men, women, and children of the Jewish Race. Mankind will not soon forget his sickening story of the mobile murder of women and little children in gas vans, nor of the evil-hardened killers whose very stomachs turned at the awful sight when they unlatched the doors of the death cars at gravesides. These were the men who sat at the edge of anti-tank ditches, cigarette in mouth, calmly shooting their naked victims in the back of the neck with their machine pistols. These were the men who, according to their own corpse accountants, murdered some two million men, women and children. These were the men of the SD.

The organization Chart of the Security Police and the SD now before the Tribunal(USA 493) was prepared and certified to by SD official Schellenberg, the Chief of Office VI of the RSHA and by SD official Ohlendorf, Chief of Office III of the RSHA. This chart shows that these Einsatz Groups were an integral part of the Security Police and SD under the supreme command of the Defendant Kaltenbrunner and, not, as has been argued, independent organizations responsible directly to Himmler.The officers of these groups were drawn from the Gestapo and the SD, and, to a lesser extent, from the criminal police. They received their orders from the various offices of the RSHA, that is, from Office III or VI as appears on that Chart as to matter pertaining to the SD and from Office IV as to matters pertaining to the Gestapo. They filed their reports with these offices and these offices made up consolidated reports from which were distributed to higher police officials and Reich Defense Commissioners, several examples of which have been introduced in the course of these proceedings.

And I am departing a little from the text to meet the argument that has been made by counsel for Defendants. Counsel for the Gestapo argued that the Gestapo was erroneously blamed for the crimes committed in the occupied territories and that the SS was responsible for them. Counsel for the SS said that the SS was erroneously blamed and that the SD was to blame. Counsel for the SD said that the SD was erroneously blamed and the Gestapo was really to blame. The Counsel for the SS said that the Gestapo also were the feared black uniform and that therefore Gestapo men were frequently mistaken for SS men.

Counsel for the SS blamed the Gestapo for the running of the concentration camp and counsel for the Gestapo blamed the SS. The fact is that all of these executiv agencies participated in the commission of these vast crimes against humanity. Counsel do not point to any agencies other than those indicted here as the guilty organizations; the defense of each organization has been simply to fasten the responsibility on one of the other indicted organizations. The conclusion is irresistible that all of the organizations participated in the commission of these great crimes.

It is a strange feature of this trial that counsel for the respective organizations have not sought to deny these crimes but only to shift responsibili for their commission. The military defendants blame the Political Leaders for initiating wars of aggression; the Gestapo blames the soldiers for the murder of escaped prisoners of war; the SA blames the Gestapo for concentration camp murders; the Gestapo blames the Leadership Corps for anti-Jewish programs; the SS blames the Cabinet for the concentration camp system; and the Cabinet blames the SS for exterminations in the East.

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The fact is that all of these organizations united in carrying out the crimin program of Nazi Germany. They are to blame as they complemented each other it i unnecessary to define as a matter of precise proof the borders of their own de- viltry. When the Reich Cabinet promul ted the decree for "Securing the unity of the Party and State." it insolubly bound these organizations for good and for bad. When the membership of these organizations swore an unconscionable oath of obedience to Hitler, they united themselves for all time within him, his work, and his guilt.

All members of the Reich Cabinet had full knowledge of the functions and activities of the Cabinet. They carried out their work together. They met as a body. They considered proposed measures as a group, and they acted as a Cabinet. Somethimes they met as the Reich Cabinet, sometimes they met as the Reich Defens Council. But in every case they jointly considered proposed legislation to the machinations of the top conspirators. From the budgetary matters of the Reich alone, if from no other source, the members of the Cabinet, each year of the N regime, were of necessity informed to a very extensive degree on all matters tha were going on in Germany. They knew about the concentration camp system because they voted the money for maintenance of concentration camps, and because their ministers inspected concentration camps. They knew about the plans for aggressiv war because they laid the groundwork for the war economy. They knew about the forced labor of prisoners of war in armament industries because they planned it even in advance of w r as the evidence shows. They prepared the political blue- prints for the entire program of aggression and of aggrandizement. Planning re- quires consultation, and consultation imparts knowledge.

Now any member of the SA who coul read had full knowledge of the aims and objectives of the SA. The weekly periodical, the SA Mann, and the monthly periodi cal, the SA Leader, stated time and again the pur oses, objectives, tasks and methods of the SA. The duties and activities of the SA in fighting in the streets abusing political opponents, and in chastising Jews are stated in almost every issue of these publications. The para-military nature of the organization was s evident. The SA participated in election proceedings, in the plan to set fire to the Reichstag, in anti-Jewish programs and boycott activities. Its activities wer widespread and well-known and its criminality was open and notorious. Much of thi:

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infamy was commonly known throughout the world. Dr. Wilhelm Hoegner, the Prime Minister of Bavaria, stated by way of affidavit: "The gross excesses of the S and SS in the service of the NSDAP were accomplished so publicly that the whol populace knew of them. Everyone who entered these organizations as a member kne of such excesses". That is what Dr. Wilhelm Hoegner said.

The Political Leaders dealt in information and in propaganda. They were the agents of the ideology and the political detectives who checked on the reactio of the people. Knowledge for them was a two-way circuit. They knew the plan and its operations and they learned of its effects. A typical example is found in the order to lynch Allied Airmen. This order had to be passed throughout the Leadership Corps in order to reach the lower echelons who were to carry out the lynchings. They saw to it that the order was carried out and they made reports on its effectiveness. There were no secrets in any Nazi cell or block unknown to them. The turn of a radio dial--the facial expression of disapproval--the inviolate secrets between cleric and suppliant--the ancient trust between father and son--even the sacred confidences of marriage--were their stock in trade. Knowledge was their business.

Every member of the SS took an oath of obedience unto death to Hitler and every member of the SS was indoctrinated in the full meanings of Hitlerian ideology. In 1936, Himmler, in describing the SS as an anti-Bolshevistic Fighting Organization openly stated: "We shall take care that never again in Germany, the heart of Europe, will the Jewish-Bolshevistic revolution of sub-humans be able t be kindled either from within or through emissaries from without." Can anyone doubt that SS men understood the meaning of these words? Or of Himmler's confession: "I know that there are some people in Germany who become sick when they se these black coats," He went on to say: "We understand the reason for this and do not expect that we shall be loved by too many." The sickness which overcame peop when they saw the black coats was the malady of fear--fear of the brutal methods of the SS, the murders they committed on the streets, and the beatings they inflicted in the concentration camps. It was known to everyone that black-coated SS men carried out the murders of 30 June 1934. Even von Mannestein testified soldiers so feared the evil SS that they were afraid to report SS mass killings in the East. The knowledge that is necessary to bind the SS organization is the

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knowledge that a member of the Death's Head Battalion had of atrocities committed in the concentration camp, that a member of the anti-partisan bands had of the killings, kidnappings, and plunder that went on behind the fighting lines, that a member of the SS Panzer Divisions had of the killings of prisoners of war or that a member of the SS Medical Corps had of the savage experiments on human beings. This knowledge was diffused by frequent changes in their duties. The Death's Head Battalions which at first were charged with the guarding of concentration camp inmates subsequently were put into the fighting front; whereas during the war the fighting troops, the Waffen SS, were used for guarding concentration camps and for carrying out exterminations in annihilation centers. The letters SS came generally to be known as the symbol for an organization both sinister and savage.

The objectives of the Gestapo were laid down by law and discussed time and again in semi-official publications such as the Voelkischer Beobachter, Das Arch the magazine of the German Police, and Best's basic handbook on the German Polic Every member knew that the Gestapo was the special police force set up by Goering and developed by Himmler to strike down potential opponents of the tyranny. Every member knew that the Gestapo operated outside the law, that the Gestapo could arrest on its own authority and imprison on its independant judgment. Every member knew that the Gestapo was the agency which filled the concentration camps with political opponents. All knew that the Gestapo was organized for the specific purpose of persecuting the victims of Nazi oppression--the Jews, the Communists, and the Churches. The right to use torture in interrogations had to be known to all who interrogated. There could be no secrecy as to the criminal aims of the Gestapo or the criminal methods by which this primary agency of terror carried out its work. And that it was an instrument of terror was known not merely to the membership--it was known throughout Germany and Europe, and in every country of the owrld, where the very name Gestapo became the watchword of terror and of fear.

We ask that a common sense and realistic test of knowledge bw applied by this Tribunal in judging these organizations for what they are, the most vicious and evil of all Nazi inventions. Surely they shall not escape condemnation for the vast crimes they have committed through a false and flimsy defense of ignorance

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in their own circles. For long, long years after this hall is emptied and for centuries beyond present perspective, the roll call of terror against human kind will be led by these appellations--Nazi, Nazi Party Leadership, SA, SD, SS, and Gestapo. Over 300,000 members of these organizations have been heard either in person or by affidavit.

The Charter requirement that there be a member of each organization in the dock who is guilty of an offense relating to the organization of which he is a member was for the purpose of insuring that there would be present before the Tribunal someone who could speak for each organization. The great number of witnesses who have appeared before the Commission and the Tribunal on behalf of the organization has, in effect, made superfluous this Charter protection to the organizations.

The measure of criminality of each organization is not limited to the acts committed by the defendant in the dock who was a member of the organization. It is wholly sufficient to meet the Charter requirements if the defendant member is guilty of some crime relating to his position as a member of the organization. In every case the criminality of the named organizations is based upon evidence which greatly surpasses the specific criminal acts of the defendants. The concept of membership stated in the Indictment in this connection is in no sense a technical one. The word representative might as well have been used since the object of the provision was to insure that there would be some defendant qualified to speak for, or otherwise represent each of the named organizations.

Seventeen of the twenty-two individual defendants were members of the Reich Cabinet. All of these defendants participated to a greater or lesser degree in the meetings of the Reich Cabinet, of the Secret Cabinet Counsel, and of the Reich Defense Council. All of them considered, acted upon, and participated in the enactment of the legislation which led to the instigation of wars of aggression and the commission od discriminatory acts against racial miniorities. The criminality of each of these defendants is founded in part upon his participation in the supreme legislative body of the Nazi system, the Reich Cabinet.

Ten of the individual defendants were members of the Leadership Corps. The activities of Gauleiters von Schirach and Streicher are illustrative of the criminality of all these defendants in their capacity as leaders of the Nazi Party.

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It was as Gauleiter of Franconia that Streicher carried out his venomous campaign against the Jews and it was as Gauleiter of Vienna that Schirach exploited slave labor.

Nine of the defendants were SS members. It is hardly necessary to go beyond SS Obergruppenfuehrer Kaltenbrunner as a representative of this organization. Here is a defendant who was the head of the most powerful department in the entire SS, the Reich Security Main Office. His activities in directing this organization need no amplification His shame disgraces all.

Eight of the defendants were members of the SA. of which Goering assumed command in the year 1923 at the very inception of the Nazi struggle for power. It was Goering who directed the SA in the Munich Putsch and it was Goering who built and made of the SA a fighting body of street rowdies.

Goering and Kaltenbrunner were members of the Gestapo. Goering, the founder of the Gestapo, bragged that every Gestapo bullet fired was his bullet, and that he assumed full responsibility for the acts of the Gestapo and was not afraid to do so. As chief of the Reich Security Main Office, Kaltenbrunner had direct responsibility for the Gestapo. The Tribunal has seen orders for committments to concentration camps carrying his typed or facsimile signature, it has reviewed evidence that executions in concentration camps were issued in his name, and it has examined many criminal orders from him as Chief of the Security Police and SD to regional Gestapo offices.

The integration of defendants and organizations is further demonstrated by the fact that most of the defendants were members of more than one of the named organizations. Frank, Frick, Goering, and Bormann were members of four.

Cabinet-members Ribbentrop and Neurath were SS generals. SA Generals Rosenberg and Schirach were Cabinet-members. Gauleiters Sauckel and Streicher were SA generals. Field Marshal Keitel and Admiral Doenitz were Cabinet-members. The complete significance of this integration

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is shown in the sinister murder of the French General Mesny. This murder was directed and planned by SS Obergruppenfuehrer Kaltenbrunner, as head of the Gestapo and SD, and by SS Obergruppenfuehrer Ribbentrop, as a member of t Reich Cabinet. Kaltenbrunner worked out the mechanics of the murder and Ribbentrop worked out the plan of deception.

Counsel for the Gestapo, in arguing before the Tribunal, has argued tha the murder was accomplished by the Reich Criminal Police rather than by the Gestapo since at the time Panzinger, who worked out the details, had succeed to the duties of Nebe asChief of Office V of the RSHA. But I should like t remind the Tribunal that there is not one shred of evidence before it to sho that Panzinger ever retired from the post he had had and had held for years as head of the department in the Gestapo responsible for special actions and assassinations. Anyway, the murder of General Mesny, according to their own organizational chart, was a political action, was a political murder, and a under the cognizance of the Gestapo, and not of the Criminal Police.

Parenthetically, I should like to say that if it is contended at any lat time that this nefarious episode was an act of reprisal, then I ask the Tribunal to bear in mind that reprisals against prisoners of war are expressly forbidden under the 1929 Convention,to which Germany was a signatory at this time and to which it had been a signatory for many years.

The whole macabre tragedy, from the faked removal of Mesny from the officers' prisoner-of-war camp at Koenigstein to the sacrilegious ceremony attending the burial of his ashes with military honors at Dresden, required the connivance and action of the Reich Cabinet, the military men, the SS, the SD, and the Gestapo. Throughout this particularly sad and sordid episode there is evident the outstanding fact of all Nazism-hypocrisy. This was whi collar homicide, custom built for deceit, starched up with foreign office formality, bearing the cold sheen of Kaltenbrunner's SD and Gestapo, and supported and sustained by the outwardly respectable yoke of the professional army.

I should also like to add at this point that counsel for the defendant organizations have each taken a large part of their time in arguing the legal principles which derive from the Charter, and, in many cases, seek to go behi

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the Charter itself. They have argued that the procedure envisioned by the Charter amounts to collective punishment, that the idea of fastening criminality on organizations is unique in law and that the maxim "nulla poena sine lege" is being violated by these proceedings.

I shall not review the legal arguments on this subject since they were exhaustively covered by Justice Jackson in his address in February. But I do assert again to the Tribunal that we are not here seeking a collective condemnation of individuals; we are seeking to establish one thing and one thing only, and that is that these organizations which taken together fastens the police state upon Germany and perpetrated these crimes, shall be characterized in history for what they were -- organizations the aims, purposes and actions of which were basically criminal and which openly violated all tenets of decency and law held in every civilized society.

The defense counsel argue that if you declare these organizations criminal, the members will become martyrs. I say that if you exonerate these organizations, the members who took these vows of unconditional obedience to Hitler and to Himmler and who committed millions of people to concentration camps, mistreated and starved and murdered thousands more in the names of these organizations, will say: "We are vindicated. What Hitler told us, what Himmler told us was the truth. These organizations to which we gave our unconditional obedience were not criminal organizations and we are not to be censured for having belonged to them." They will find in your acquittal of these organizations justification for these horrible crimes and thereby new reasons to convince people in Germany that no wrong was done. And it will give them the terrible opportunity for reviving them in one form or another or for inflicting again upon the civilized world the terrible consequences of criminal group action.

I should also like to point out, because I have read into the record some remarks relative to the Sedition Act of 1940, that the United States Sedition Act of 1940 was cited only to show that the concept of organizational criminality is not foreign to Anglo-American jurisprudence.

Under the Sedition Act, each person indicted, of course, has the opportunity of resisting in court the charge of criminality of the organization

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to which he is accused of belonging. But that is not to say, it seems to me, that apart from constitutional questions, which are inapplicable here, the Congress of the United States could not provide, as in this Charter, that the criminal character of the organization should first be litigated in a general proceeding in which all members are given a chance of appearing in person or by representation, reserving their personal defenses to subsequent trials in which they may contest all questions except the single question of whether the organization was criminal. For what we seek here is not a criminal conviction of the members of these organizations. Their individual criminality -- I think it is worth repeating -- is not an issue now before this Tribunal. The only issue is whether the Tribunal shall or shall not declare these organizations to have been criminal.

Finally, Mr. President, the very anonymity which the Nazis intended to give to crime by the use of these organizations plagues us to the very end of this trial. After these proceedings are concluded, this same organizational anonymity will plague the Allied powers in seeking to bring to book those who are responsible for these terrible offenses. It is a sobering fact that the vast majority of the crimes committed in the names of these organizations must go unpunished. But Nazism must not escape by this route which it rigged for itself; it must not survive in secret and unannounced organizational entities to prepare a new onslaught against civilization. By a declaration of criminality against these organizations, this Tribunal will put on notice not only the people of Germany -- but the people of the whole world. Mankind will know: that no crime will go unpunished because it was committed in the name of a political party or of a state; that no crime will be passed by because it is too big; that no criminals will avoid punishment because there are too many.

On February 28, 1946, in this courtroom, the Chief Prosecutor for the United States of America, Mr. Justice Robert H. Jackson made a statement before this Tribunal concerning the criminality of these organizations. That statement represents the attitude of the United States in these proceedings towards the organizations. I can do no better than to remind the Tribunal of it again. I quote from what Mr. Justice Jackson said on that occasion:

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"In administering preventive justice with a view to forestalling repetition of these crimes against peace, crimes against humanity and war crimes, it would be a greater catastrophe to acquit these organizations than it would be to acquit the entire twenty-two individual defendants in the box. These defendants' power for harm is spent. That of these organizations goes on. If these organizations are exonerated here the German people will infer that they did no wrong and they will easily be regimented in reconstituted organizations under new names behind the same program."

"In administering retributive justice it would be possible to exonerate these organizations only by concluding that no crimes have been committed by the Nazi regime. For these organizations' sponsorship of every Nazi purpose and their confederation to execute every measure to attain these ends is beyond denial. A failure to condemn these organizations under the terms of the Charter can only mean that such Nazi ends and means cannot be considered criminal and that the Charter of the Tribunal declaring them so is a nullity."

THE PRESIDENT: The Tribunal will adjourn.

(The Tribunal adjourned until Friday 30 August 1946 at 1000 hours.)